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No. 80-1188

In the Supreme Court of the United States

OCTOBER TERM, 1981

JAMES EDGAR,
APPELLANT,

v.

MITE CORPORATION AND MITE HOLDINGS, INC.,
APPELLEES.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

JOINT APPENDIX

TYRONE C. FAHNER
Attorney General of Illinois
160 North LaSalle Street
Suite 900
Chicago, Illinois 60601
(312) 793-3500

Attorney for Appellant

CLEARY, GOTTLIEB, STEEN & HAMILTON
One State Street Plaza
New York, New York 10004
(212) 344-0600

Attorney for Appellees

Jurisdictional Statement Filed January 15, 1981.
Probable Jurisdiction Noted May 4, 1981.

TABLE OF CONTENTS

	PAGE
Docket Sheet	A-1
Stipulation of Facts	B-1
Motion for a Temporary Restraining Order filed January 22, 1979	C-1
Amended Motion for a Temporary Restraining Order filed January 23, 1979	D-1
Second Amended Complaint filed February 8, 1979	E-1
Verified Answer to Second Amended Complaint filed February 9, 1979	F-1
Transcript of Proceedings for January 22, 1979	G-1
Transcript of Proceedings for January 23, 1979	H-1
Transcript of Proceedings for February 2, 1979	I-1
Transcript of Proceedings for February 9, 1979	J-1

APPENDIX A

DOCKET SHEET

DATE	NR.	ITEM
1/19/79	1	Filed 1/19/79 Complaint and two copies.
1/19/79	2	Filed 1/19/79 Civil Cover Sheet.
1/22/79	3	Filed 1/19/79 (a) Transfer of Case to the Executive Committee for Reassignment. The above-captioned cause is currently pending on my calendar. I recommend to the Executive Committee that this case be reassigned by lot to another judge of this Court. The reasons for my recommendaton are indicated on the reverse of this form. Crowley, J. (This cause was assigned to me pursuant to General Rule 2.21D(1) as being related to Case No. 78 C4246 and 78 C 3676. It does not appear to be related within the meaning of General Rule 2.31. (b) Order of the Executive Committee: It is hereby ordered that the Clerk of the Court reassign the above-captioned cause by lot to the calendar of an individual judge of this Court in accordance with the Rules. Enter: For the Executive Committee. — Parsons, CJ (JUDGE CROWLEY).
1/22/79	4	Filed 1/22/79 Appearance of defendant Chicago Rivet and Machine Co. and that of its attorneys with Affidavit re Rule 39.
1/22/79	5	Filed 1/22/79 Answer to Complaint of defendant, Chicago Rivet and Machine Co.
1/23/79	6	Filed 1/22/79 Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction.

1/23/79	7	Filed 1/22/79 Motion of Defendant Chicago Rivet and Machine Co. to Dismiss Plaintiffs' Complaint.
1/23/79	8	Enter order dated January 22, 1979: Hearing on plaintiffs' motion for temporary restraining order held. Defendant Dixon given leave to adopt motion to dismiss of Chicago Rivet and Machine Co. Hearing on motion for temporary restraining order continued to January 23, 1979 at 9:30 a.m. — Crowley, J.
1/24/79	9	Filed 1/23/79 Plaintiff's Motion for Leave to File First Amended Complaint.
1/24/79	10	Filed 1/23/79 Plaintiff's First Amended Complaint.
1/24/79		Filed 1/23/79 Amended Motion for a Temporary Restraining Order and Preliminary Injunction. (not available)
1/24/79	11	Filed 1/23/79 Defendant's Notice of Motion; Motion of Defendant Chicago Rivet & Machine Co. to Dismiss Plaintiff's First Amended Complaint.
1/24/79	12	Filed 1/23/79 Defendant "Rivet" Answer to First Amended Complaint.
1/24/79		Filed 1/23/79 Motion of Defendant Chicago Rivet and Machine Co. to Dismiss First Amended Complaint. (not available)
1/24/79	13	Enter order dated 1/23/79: Hearing on motion for temporary restraining order held. Agreed oral status quo order entered. Plaintiffs given leave to file First Amended Complaint. Defendant Mite given leave to file answer and motion to dismiss the First Amended Complaint. Memorandum in sup-

		port of motion to dismiss to be filed by January 23, 1979. Response to motion to be filed by January 24, 1979. Defendant Dixon given leave to adopt motion to dismiss and supporting memorandum. Ruling on motion to dismiss set for January 26, 1979 at 10:30 a.m. — Crowley, J.
1/25/79	14	Enter order dated January 24, 1979: Hearing held. Plaintiff's amended motion for temporary restraining order and preliminary injunction and defendants' motion to dismiss the First Amended Complaint are entered and continued generally. (see DRAFT for particulars). Ruling of January 26, 1979 is stricken. — Crowley, J.
2/5/79	15	Filed 2/2/79 Plaintiff's Notice of Motion; Second Amended Motion for a Temporary Restraining Order and Preliminary Injunction.
2/5/79	16	Enter order dated 2/2/79. Hearing on plaintiffs' second amended motion for a temporary restraining order and preliminary injunction held. Enter PRELIMINARY Injunction Order (DRAFT). Defendant Dixon given leave to adopt the answer of Chicago Rivet & Machine Co. to the second amended complaint. Defendants' motion to stay the preliminary Injunction Order is denied. Hearing on permanent injunction set for February 8, 1979 at 9:30 a.m. — Crowley, J.
2/8/79		Filed Motion for a Temporary Restraining Order and Preliminary Injunction.

2/8/79		Filed Motion for Leave to File Second Amended Complaint.
2/8/79	17	Filed Second Amended Complaint with added parties.
2/12/79	18	Filed 2/9/79 Verified Answer of Defendant Chicago Rivet and Machine Co. to Second Amended Complaint.
2/12/79	19	Filed 2/9/79 Answer to Second Amended Complaint by defendants Morrissey, Morrissey, Tonn, Ward, Wade, Jindrich and Hank.
2/12/79	20	Filed 2/9/79 Affidavit of Ralph W. Jindrich.
2/12/79	21	Filed 2/9/79 Affidavit of Kenneth A. Bodenstein.
2/12/79	22	Filed 2/9/79 Affidavit of G. Chris Andersen.
2/12/79	23	Filed 2/9/79 Affidavit of Kenneth L. Altman.
2/12/79	24	Filed 2/9/79 Affidavit of Terry F. Grove.
2/12/79	25	Filed 2/9/79 Affidavit of Richard Cheney.
2/13/79	26	Filed 2/12/79 Appearance of additional counsel for plaintiff Mite Corporation with Affidavits re Rule 39 (4).
2/14/79	27	Filed 2/9/79 Certain Defendants Notice of Motion; Motion to Dismiss
2/14/79	28	Enter order dated 2/9/79; Hearing held. According to the findings of fact and conclusions of law, the motion of plaintiffs Mite Corporation and Mite Holdings, Inc. for a permanent injunction is granted (DRAFT). — Crowley, J.
2/14/79	29	Enter order dated 2/9/79: The plaintiffs' Mite Corporation and Mite Holdings, Inc. motion for a preliminary injunction is denied

		(DRAFT). — Crowley, J. Notices mailed 2/14/79
3/2/79	30	Filed 3/2/79 Defendant, Alan J. Dixon, Secretary of State's Notice of Appeal from the final Judgment Order entered 2/9/79.
3/9/79		Filed 3/9/79 Clerk's File Copy Transcript of Proceedings held before Judge Crowley January 22, 23, 24, and February 2, 8, 9, 1979 filed by official court reporter (6 Volumes). (UNDER SEPARATE CERTIFICATE)

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC.,
Plaintiffs,

v. No. 79 C 200

ALAN J. DIXON and
CHICAGO RIVET & MACHINE CO.,
Defendants.

STIPULATION

Plaintiffs, MITE Corporation and MITE Holdings, Inc., and defendant, Alan J. Dixon through their respective counsel, stipulate to the matters stated below. Defendant Chicago Rivet & Machine Co. through its counsel stipulates to all the matters stated below except for the bracketed material.

1. This Court has subject matter jurisdiction over the claims asserted in the First Amended Complaint and personal jurisdiction over MITE Corporation, MITE Holdings, Inc., Alan J. Dixon and Chicago Rivet & Machine Co.

2. Venue is proper in this district pursuant to Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. §78aa and 28 U.S.C. §1391(b).

3. Plaintiffs, MITE Corporation and MITE Holdings, Inc., are corporations duly organized and existing under the laws of the State of Delaware.

4. The common stock of Chicago Rivet & Machine Co. is registered with the Securities and Exchange Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 and is traded on the American Stock Exchange, which is a national securities exchange.

5. Chicago Rivet & Machine Co. presently has Eight Hundred Sixty-Six Thousand Two Hundred Sixty-Four (866,264) shares of common stock issued and outstanding and has Two Thousand One Hundred Eighty-One (2,181) shareholders of record. Five Hundred Eighty-Nine (589) shareholders owning Three Hundred Seventy-Seven Thousand Three Hundred Ninety-Five (377,395) shares of Chicago Rivet & Machine Co.'s common stock have addresses of record in Illinois and One Thousand Five Hundred Ninety-Two (1,592) shareholders owning Four Hundred Eighty-Eight Thousand Eight Hundred Sixty-Nine (488,869) shares have addresses of record outside Illinois.

6. On January 19, 1979 MITE Holdings, Inc. filed a Schedule 14D-1 with the Securities and Exchange Commission pursuant to Section 14(d)(1) of the Securities Exchange Act and Rule 14D-1 promulgated thereunder with respect to proposed cash tender offers.

7. Under the Williams Act, a cash tender offer may commence immediately upon filing a Schedule 14D-1. The offer must remain open for at least seven days.

8. On or about January 19, 1979, MITE Holdings, Inc., a wholly-owned subsidiary of MITE Corporation, proposed to make a tender offer to purchase any and all of the outstanding shares of the common stock of Chicago Rivet & Machine Co. for cash at a price of Twenty-Eight Dollars ($28.00) per share, [a premium of more than Four Dollars ($4.00) per share over the market price in the period immediately preceding the announcement of the offer.]

9. The proposed tender offer represents a transaction in interstate commerce [of more than Twenty-Three Million Dollars ($23,000,000).]

[10. MITE Holdings, Inc.'s proposed offer to purchase the common stock of Chicago Rivet & Machine Co. was intended to comply with the requirements of the Williams Act and would have been made to all of the shareholders of Chicago Rivet & Machine Co. throughout the United States, not just shareholders residing in Illinois.]

11. For purposes of the Illinois Act, Chicago Rivet & Machine Co. is a "target company" because Chicago Rivet & Machine Co. has its principal executive office in Illinois and is organized under the laws of Illinois (Illinois Act §2.10(2)(a) and (b)). The Illinois Act, therefore, purports to regulate MITE Holdings, Inc.'s proposed tender offer for any and all shares of Chicago Rivet & Machine Co. common stock.

12. On February 1, 1979, Alan J. Dixon executed a Temporary Cease and Desist Order and Notice of Hearing finding that the matter is properly within the jurisdiction of the Secretary of State and that the provisions of Section 4.A of the Illinois Act are about to be violated and ordering MITE Corporation and MITE Holdings, Inc., among other matters, to "cease and desist all further action to make a tender-offer to security holders of the Chicago Rivet & Machine Co." On February 1, 1979, Alan J. Dixon notified plaintiffs that he intended to serve this order and notice on plaintiffs on February 5, 1979.

13. On February 2, 1979 Chicago Rivet & Machine Co. gave plaintiffs a letter stating that on February 6, 1979, it would bring suit in the Circuit Court of Cook County, Illinois, seeking a temporary restraining order against MITE Holdings, Inc.'s proposed tender offer because MITE Holdings, Inc. was violating the Illinois Act.

14. On February 2, 1979 this Court entered an order preliminarily enjoining Alan J. Dixon from serving and issuing any cease and desist order or notice of hearing or from otherwise invoking, applying, or enforcing the Illinois Business Take-Over Act or any orders, rules or regulations issued pursuant to it, against MITE Corporation or MITE Holdings, Inc. or any officer, director, agent, employee or financial, business or legal advisor of either plaintiff or those acting on their behalf in connection with plaintiffs' proposed tender offer for the shares of Chicago Rivet & Machine Co. Pursuant to the request of Alan J. Dixon and Chicago Rivet & Machine Co., the Court entered its order as a preliminary injunction. This Court denied Chicago Rivet & Machine Co.'s request for a stay in order to appeal this Court's decision to the Seventh Circuit Court of Appeals by February 5, 1979. Chicago Rivet & Machine Co. has not appealed to or requested a stay from the Seventh Circuit, although the time within which it may do either has not expired.

15. On February 5, 1979 MITE Holdings, Inc. published in the national edition of the *Wall Street Journal* its offer to purchase any and all of the outstanding shares of Chicago Rivet & Machine Co. for cash at price of Twenty-Eight Dollars ($28.00) net per share.

16. The Illinois Act requires advance notice of the tender offer, requires the offer to be open at least twenty (20) calendar days, and requires pro rata purchase and withdrawal provisions.

[17. Plaintiffs have no remedy at law against Chicago Rivet & Machine Co. for attempting to enforce the Illinois Act.]

[18. Plaintiffs have no remedy at law against Alan J. Dixon for attempting to enforce the Illinois Act.]

One of the attorneys for the
plaintiffs MITE Corporation
and MITE Holdings, Inc.
Jenner & Block
One IBM Plaza
Chicago, Illinois 60611
(312) 222-9350

One of the attorneys for the
defendant Alan J. Dixon
Assistant Attorney General
State of Illinois
160 North LaSalle Street
Chicago, Illinois 60601
(312) 793-3276

One of the attorneys for the
defendant Chicago Rivet &
Machine Co.
Sonnenschein, Carlin, Nath
and Rosenthal
8000 Sears Tower
Chicago, Illinois 60606
(312) 876-8000

APPENDIX C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC.,
Plaintiffs,

v. No. 79 C 200

ALAN J. DIXON and
CHICAGO RIVET & MACHINE CO.,
Defendants.

MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65(b), MITE Corporation and MITE Holdings, Inc. (collectively "MITE"), for the reasons set forth in the attached Affidavit of Leo J. Brancato, MITE's Memorandum in Support of Motion for a Temporary Restraining Order and Preliminary Injunction and MITE's Complaint, respectfully move for the entry of a temporary restraining order, and thereafter a preliminary injunction, restraining Alan J. Dixon and CHICAGO RIVET & MACHINE CO. from invoking or enforcing the Illinois Business Take-Over Act, P.A. 80-1421 (as amended, effective September 8, 1978) against MITE.

One of the attorneys for
MITE Corporation and
MITE Holdings, Inc.

Chester T. Kamin
Michael J. Rovell
Ronald L. Marmer
JENNER & BLOCK
One IBM Plaza
Chicago, Illinois 60611
(312) 222-9350

Of Counsel
CLEARY, GOTTLIEB,
STEEN & HAMILTON
One State Street Plaza
New York, New York 10004
(212) 344-0600

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

AFFIDAVIT

LEO J. BRANCATO, states on oath as follows:

1. I am the President of MITE Corporation ("MITE") and the President of MITE Holdings, Inc. ("MITE Holdings"). I make this affidavit in support of a motion for an order restraining enforcement of the Illinois Business Take-Over Act against MITE and MITE Holdings which are in the process of commencing a cash tender offer for any and all shares of the common stock of CHICAGO RIVET & MACHINE CO. ("CHICAGO RIVET").

2. MITE and MITE Holdings are Delaware corporations with their principal executive offices at 446 Blake Street, New Haven, Connecticut.

3. MITE Holdings is a wholly-owned subsidiary of MITE whose only present business is to make a tender offer for, and hold shares of, CHICAGO RIVET.

4. The principal business of MITE is the develpment, manufacture and sale of industrial fasteners and other products throughout the United States and abroad. MITE has manufacturing facilities in Connecticut and Indiana and employs approximately 1,000 employees. MITE's sales for the fiscal year ended 1978 were $48,202,940, resulting in net income of $4,107,502.

5. Securities of MITE are registered with the Securities and Exchange Commission ("SEC") pursuant to Section 12(b) of the Securities Exchange Act of 1934 (the "Exchange Act"). MITE's Common Stock and Subordinated Debentures are listed and traded on the American Stock Exchange. MITE is currently subject to the informational requirements of the Exchange Act and files reports and other information with the SEC relating to its business, financial statements and other matters.

6. As of August 31, 1978, MITE had 2,242,787 shares of its Common Stock outstanding. As of May 1, 1978, MITE had approximately 5,960 record holders of its Common Stock.

7. MITE has filed a Schedule 14D-1 with the SEC pursuant to Section 14(d)(1) of the Exchange Act and Rule 14d-1 promulgated thereunder with respect to a proposed cash tender offer by MITE and MITE Holdings for any and all shares of CHICAGO RIVET common stock at a price of net $28 cash to selling CHICAGO RIVET stockholders which is $4.12 above the closing price of CHICAGO RIVET stock on January 18, 1979, the last full day of trading prior to the announcement of the proposed offer. The proposed tender offer complies with the federal legislation regulating interstate tender offers (commonly known as the "Williams Act" amendments to the Exchange Act) and the regulations promulgated thereunder.

8. MITE's and MITE Holdings' tender offer for any and all shares of CHICAGO RIVET common stock will be made in Illinois and throughout the entire United States. To accomplish that end, among other things, MITE and MITE Holdings intend on January 24, 1979, to publish the terms of the offer in *The Wall Street Journal* or some other newspaper of general circulation.

9. MITE and MITE Holdings have adequate financing to consummate their proposed cash tender offer for any and all of the shares of CHICAGO RIVET common stock.

10. If MITE and MITE Holdings confront significant delays in proceeding with their proposed cash tender offer for any and all CHICAGO RIVET common stock, these delays may well force MITE and MITE Holdings to discontinue their plan to purchase any and all the shares of CHICAGO RIVET. As a result, MITE and MITE Holdings would irretrievably lose the opportunity to acquire CHICAGO RIVET, a unique company. MITE and MITE Holdings also would be prevented from injecting approximately $23 million into interstate commerce. In addition, shareholders of CHICAGO RIVET residing throughout the United States, including those residing outside of Illinois, would be deprived of the opportunity to decide whether to tender their shares at a substantial premium over market.

(s) LEO J. BRANCATO

Sworn to before me this
19th day of January, 1979.

(s) Ann Moynihan
Notary Public

APPENDIX D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC.,
Plaintiffs,

v. No. 79 C 200

ALAN J. DIXON and
CHICAGO RIVET & MACHINE CO.,
Defendants.

AMENDED MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65(b), MITE Corporation and Mite Holdings, Inc. (collectively "MITE"), for the reasons set forth in the Affidavits of Robert Blinken (attached) and Leo J. Brancato, MITE's Memorandum in Support of Motion for a Temporary Restraining Order and Preliminary Injunction; MITE's Supplemental Memorandum and Mite's First Amended Complaint, respectfully move for the entry of a temporary restraining order, and thereafter a preliminary injunction, restraining Alan J. Dixon and CHICAGO RIVET & MACHINE CO. from invoking or enforcing the Illinois Business Take-Over Act, P.A. 80-1421 (as amended, effective September 8, 1978), against MITE and restraining CHICAGO RIVET & MACHINE CO. from invoking or enforcing the Pennsylvania Takeover Disclosure Law against MITE.

(s) Chester T. Kamin
One of the Attorneys for
MITE Corporation and
MITE Holdings, Inc.

Chester T. Kamin
Michael J. Rovell
Ronald L. Marmer
JENNER & BLOCK
One IBM Plaza
Chicago, Illinois 60611
(312) 222-9350

Of Counsel

Richard W. Hulbert
CLEARY, GOTTLIEB, STEEN & HAMILTON
One State Street Plaza
New York, New York 10004
(212) 344-0600

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

AFFIDAVIT

ROBERT J. BLINKEN, states on oath as follows:

1. I am the Chairman of the Board of Directors and the principal executive officer of MITE Corporation ("MITE") and MITE Holdings, Inc. ("MITE HOLDINGS"). I make

this affidavit in support of a motion for an order restraining Chicago Rivet & Machine Co. ("Rivet") from enforcing or invoking the Pennsylvania "Takeover Disclosure Law" against Mite and MITE Holdings or their officers, directors and financial advisers in connection with the proposed cash offer by MITE Holdings for any and all shares of the common stock of Rivet.

2. I am informed and believe that Rivet has admitted that it is an Illinois corporation which maintains its principal executive offices in Bellwood, Illinois. Notwithstanding these conceded facts Rivet has sought to delay, and thus if possible to frustrate, the ability of the stockholders of Rivet to accept the MITE cash offer at a premium over the prior market price of Rivet stock by asserting the applicability to the proposed offer of the Pennsylvania statute referred to above.

3. In pursuance of this strategy Rivet, I am informed, commenced earlier today suit against MITE, MITE Holdings, their officers and directors, and Wertheim & Co. and Wertheim & Co., Inc., the latter being the proposed dealer-manager of the MITE offer, in the Court of Common Pleas of Blair County, Pennsylvania, Equity No. 3203. I am also informed that by a complaint filed today Rivet has sought to induce the Pennsylvania Securities Commission to initiate administrative and/or judicial enforcement proceedings against the MITE defendants on the basis of threatened violations of the same Pennsylvania statute.

4. I am informed by my counsel that they do not believe that the Pennsylvania statute above referred to is applicable to MITE's proposed offer and that in any event the Pennsylvania statute is unconstitutionally invalid insofar as it purports to apply to the MITE offer, for substantially the same reasons already set forth in the plaintiffs' prior memorandum of law with respect to the Illinois Business Take-over Act.

5. If the requested relief is not granted, MITE, MITE Holdings and the common stockholders of Rivet will suffer substantial delay and consequent irreparable injury:

(a) The loan commitments obtained by MITE involve fees of approximately $1,700 per week, and this expense will not be recoverable.

(b) Rivet's strategy has caused the commencement of a second litigation in Pennsylvania. Moreover, Rivet seeks to proliferate litigation still further by inducing the Pennsylvania Securities Commission to act on its administration complaint. These proceedings impose substantial additional legal expenses on MITE, which will likewise not be recoverable at least in major part.

(c) The needless proliferation of litigation increases the burden on the time and attention of MITE's executive personnel, and thus the expense to MITE.

(d) The object of these duplicative proceedings is obviously delay, and beyond that the evident hope that MITE will abandon the proposed offer. This objective threatens the valuable opportunity which MITE desires to offer to Rivet stockholders to sell their stock at a significant cash premium.

(s) Robert J. Blinken

Sworn to before me this
22nd day of January, 1979.

(s) Diane C. Jetterson
Notary Public

APPENDIX E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC., individually
and derivatively on behalf of
Chicago Rivet & Machine Co.
Plaintiffs,

v. No. 79 C 200

ALAN J. DIXON, CHICAGO RIVET & MACHINE CO., WALTER W. MORRISSEY, JOHN A. MORRISSEY, JOHN H. TONN, THOMAS P. WARD, PAUL M. WADE, RALPH W. JINDRICH, BERNARD J. HANK, JR., ROGER B. BRANSTETTER, ROBERT K. BROWN, CLARENCE E. DAMHORST, DONALD A. MCCORMICK, WILL H. SHINEFLUG, RICHARD A. KEELER, MARGARET M. O'CONNELL, TIMOTHY A. OLSON, and OLIVER T. MANN,
Defendants.

SECOND AMENDED COMPLAINT

Plaintiffs, MITE Corporation ("MITE") and MITE Holdings, Inc. ("MITE Holdings"), by their attorneys, complain against Alan J. Dixon, Chicago Rivet & Machine Co., Walter W. Morrissey, John A. Morrissey, John H. Tonn, Thomas P. Ward, Paul M. Wade, Ralph W. Jindrich, Bernard J. Hank, Jr., Roger B. Branstetter, Robert K. Brown, Clarence E. Damhorst, Donald A. McCormick, Will H. Shineflug, Richard A. Keeler, Margaret M. O'Connell,

Timothy A. Olson and Oliver T. Mann ("the director-officer defendants") and allege as follows:

1. This is an action among other matters for a declaratory judgment, pursuant to 28 U.S.C. §2201, declaring each of the Illinois Business Take-Over Act, P.A. 80-1421 (as amended, effective September 8, 1978) (the "Illinois Act") and the Pennsylvania Takeover Disclosure Law (effective March 3, 1976) (the "Pennsylvania Law") to be null and void on its face and as applied to the plaintiffs, in connection with a proposed cash tender offer by MITE and MITE Holdings for any and all of the outstanding shares of common stock of CHICAGO RIVET & MACHINE CO. ("Chicago Rivet") because the Illinois Act and the Pennsylvania Law conflict with and thus are preempted by the Securities Exchange Act of 1934, 15 U.S.C. §§78a *et seq.* (the "Exchange Act"); because the Illinois Act and the Pennsylvania Law violate the Supremacy and Commerce Clauses of the Constitution of the United States; and because the Illinois Act and the Pennsylvania Law deny rights protected by and enforceable under 42 U.S.C. §1983.

2. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, plaintiffs request a temporary restraining order, preliminary injunction and permanent injunction enjoining and restraining the defendant Dixon from invoking or enforcing the Illinois Act and enjoining and restraining the defendant Chicago Rivet from invoking or enforcing the Illinois Act or the Pennsylvania Law against the plaintiffs in connection with the aforementioned tender offer. Plaintiffs also seek to restrain defendant Chicago Rivet and the director-officer defendants from completing an offer by Chicago Rivet to purchase at least 350,000 shares of its own common stock.

PARTIES

3. Plaintiff MITE is a corporation organized and existing under the laws of the State of Delaware with its principal executive offices at 446 Blake Street, New Haven, Connecticut.

4. Plaintiff MITE Holdings is a corporation organized and existing under the laws of the State of Delaware, with its principal executive offices at 446 Blake Street, New Haven, Connecticut.

5. Defendant Chicago Rivet is a corporation organized and existing under the laws of the State of Illinois with its principal executive offices at 950 S. Twenty-Fifth Avenue, Bellwood, Illinois.

6. Defendant Alan J. Dixon is the Secretary of State of Illinois. He is charged with the administration and enforcement of the Illinois Act. He maintains an office at 188 West Randolph Street, Chicago, Illinois.

7. Defendants Walter W. Morrissey, John A. Morrissey, John H. Tonn, Thomas P. Ward, Paul M. Wade, Ralph W. Jindrich, and Bernard J. Hank, Jr. are and at all pertinent times have been members of the Board of Directors of Chicago Rivet. The remaining defendant officers are: Roger B. Branstetter, Vice President — Tyrone; Robert K. Brown, Vice President — Employee Relations; Clarence E. Damhorst, Vice President — Administration; Donald A. McCormick, Vice President — Manufacturing; Will H. Shineflug, Vice President — Marketing; Richard A. Keeler, Treasurer; Margaret M. O'Connell, Secretary; Timothy A. Olson, Controller; and Oliver T. Mann, Senior Vice President. The individual defendants who are directors or officers of Chicago Rivet are hereinafter collectively sometimes referred to as the director-officer defendants. The director-officer

defendants, except for Roger Branstetter, who is a resident of Pennsylvania, are residents of Illinois.

8. Defendant Walter W. Morrissey owns 18,558 shares of Chicago Rivet common stock which include 5,824 shares owned individually, 1,002 shares held beneficially, 2,152 shares held as co-trustee of a trust in which he has a beneficial interest, and 9,580 shares held in other trusts of which he is a co-trustee.

9. Defendant John A. Morrissey owns 13,686 shares of Chicago Rivet common stock which include 5,079 shares owned individually, 3,592 shares owned beneficially, 3 shares held as custodian for his son, and 5,012 shares held in six trusts of which he is a co-trustee.

10. Defendant John H. Tonn owns 26,815 shares of Chicago Rivet common stock.

11. Defendant Thomas P. Ward owns 5,245 shares of Chicago Rivet common stock which include 3,795 shares owned by his wife, 1,350 shares owned jointly with his wife, and 100 shares held as custodian for his daughter.

12. Defendant Paul M. Wade owns 3,089 shares of Chicago Rivet common stock which includes 1,400 shares owned by him as trustee under self-declaration of trust in which he is the primary beneficiary, 1,909 shares held in trusts of which he is a co-trustee, and 500 shares owned by a corporation in which he has a controlling interest. Paul M. Wade is a co-trustee of the Chicago Rivet & Machine Co. Employees' Trust which holds 21,600 shares of Chicago Rivet common stock.

13. Defendant Ralph W. Jindrich, the President, owns 200 shares of Chicago Rivet common stock. Ralph W. Jindrich is a co-trustee of the Chicago Rivet & Machine Co. Employees'

Trust which holds 21,600 shares of Chicago Rivet common stock.

14. Defendant Bernard J. Hank, Jr. owns 400 shares of Chicago Rivet common stock which include 200 shares owned by his wife.

15. The individual share ownership of the defendant officers who are not directors is presently unknown to plaintiffs.

JURISDICTION AND VENUE

16. This Court has subject matter jurisdiction of this action pursuant to Section 27 of the Exchange Act, 15 U.S.C. §78aa, pursuant to 28 U.S.C. §§1331, 1332 and 1337, as to Counts I, II and IV additionally pursuant to 42 U.S.C. §1983 as to Counts I and II and as to Count III pursuant 28 U.S.C. §1332 and the principles of pendent jurisdiction. The amount in controversey, exclusive of interest and costs, exceeds the sum of $10,000.

17. Venue in this district is proper pursuant to Section 27 of the Exchange Act, 15 U.S.C. §78aa, and 28 U.S.C. §1391(b), because the defendants reside or do business in this district and the acts and transactions giving rise to this claim occur here.

DESCRIPTION OF MITE AND MITE HOLDINGS

18. The principal business of MITE is the development, manufacture and sale of (i) industrial components, consisting of specialty fasteners and hardware products; and (ii) special products, including precision spindles, time stamps and recorders, perforators, hydraulic control devices and attachments for home sewing machines. These products are manufactured in Connecticut and Indiana by MITE, which

has approximately 1,000 employees. MITE's products are sold throughout the United States and abroad. MITE's sales for the fiscal year ended 1978 amounted to $48,202,940 resulting in net income of $4,107,502.

19. MITE's Common Stock, its Convertible Preferred Stock, Series A, and its 10% Subordinated Sinking Fund Debentures due 1997 are registered with the Securities and Exchange Commission ("SEC") pursuant to Section 12(b) of the Exchange Act. The Common Stock and the Subordinated Debentures are listed and traded on the American Stock Exchange. The Covertible Preferred Stock is traded over-the-counter. MITE is currently subject to the informational requirements of the Exchange Act and files reports and other information with the SEC relating to its business and financial statements.

20. MITE has approximately 2,242,787 shares of its Common Stock outstanding and approximately 5,960 record-holders of its Common Stock located in 47 states and the District of Columbia.

21. MITE Holdings is a wholly-owned subsidiary of MITE whose only present business is to make a tender offer for, and hold shares of, Chicago Rivet.

DESCRIPTION OF CHICAGO RIVET

22. The Principal business of Chicago Rivet consists of (i) the development, manufacture and sale of rivets, automatic rivet-setting machines, and the parts and tooling for such machines and the leasing of such machines to cutomers; and (ii) the development, manufacture and sale of steel wire. These products are manufactured in Illinois, Pennsylvania and Iowa by Chicago Rivet, which has approximately 1,000 employees. Chicago Rivet's products are sold or leased

throughout the United States. In 1977 Chicago Rivet's total revenue amounted to $36,486,255, resulting in net earnings of $2,447,946.

23. Chicago Rivet's Common Stock is registered with the SEC pursuant to Section 12(g) of the Exchange Act and is traded on the American Stock Exchange. Chicago Rivet is currently subject to the informational requirements of the Exchange Act and files reports and other information with the SEC relating to its business, financial statements and other matters. As of September 30, 1978, Chicago Rivet had 866,264 shares of Common Stock outstanding. As of December 31, 1977, Chicago Rivet had approximately 2,259 recordholders of its Common Stock.

THE TENDER OFFER AND ITS OBSTRUCTION BY THE ILLINOIS ACT AND THE PENNSYLVANIA LAW

24. MITE has filed a Schedule 14D-1 with the SEC pursuant to Section 14(d)(1) of the Exchange Act and Rule 14d-1 promulgated thereunder with respect to a proposed cash tender offer by MITE Holdings for any and all shares of Chicago Rivet common stock at a price of $28 cash net to selling Chicago Rivet stockholders ("MITE's proposed tender offer"). MITE's proposed tender offer will comply with the federal legislation regulating interstate tender offers (commonly known as the "Williams Act" amendments, 15 U.S.C. §§78m(d)-(e), 78n(d)-(e), to the Exchange Act) and the regulations promulgated thereunder. Under the Williams Act, a cash tender offer may commence immediately upon filing of a Schedule 14D-1. The offer must remain open for at least seven days. Accordingly, but for the Illinois Act and the Pennsylvania Law, MITE's proposed tender offer could have commenced immediately upon filing the Schedule 14D-1. MITE and MITE Holdings initially intended to commence the offer on January 24, 1979.

THE FEDERAL STATUTE

25. In 1968 Congress enacted the Williams Act amendments to the Exchange Act to regulate tender offers, which involve large interstate securities transactions and purchases of securities of corporations under the regulation of the SEC. 15 U.S.C. §§78m(d)-(e) 78n(d)-(e).

26. In enacting the Williams Act, Congress recognized that tender offers serve beneficial economic functions by, among other things, providing investors an opportunity to sell their shares at advantageous premiums over prevailing market prices.

27. The language of the Williams Act and its legislative history demonstrate the intent of Congress that, when an interstate offer is made for the shares of a public corporation, the success or failure of the offer should be left to the free and informed investment judgment of the shareholders of that corporation.

28. Senator Williams, a sponsor of the bill and Chairman of the Senate Subcommittee on Securities which recommended adoption of the Williams Act, clearly explained Congress' intention not to favor either side in a tender offer:

> "The committee has taken extreme care to avoid tipping the balance of regulation either in favor of management or in favor of the person making the takeover bid. The [Williams Act] is designed to require full and fair disclosure for the benefit of investors while at the same time providing the offeror and management equal opportunity to fairly present their case." 113 Cong. Reg. 24664 (1967).

29. Accordingly, the Williams Act is designed not to defeat or discourage tender offers but to establish evenhanded

regulation which favors neither the offeror nor incumbment management of the corporation whose securities are being purchased.

30. For the protection of investors, the Williams Act requires that the offeror provide the information which Congress has judged to be material for an intelligent determination to sell their securities for a cash premium or to hold them.

31. The provisions of the Williams Act represent a comprehensive, carefully balanced, Congresstional scheme which regulates the entire field of cash tender offers. No aspect of this type of securities transaction was ignored by Congress, and no part of it was left to state regulation.

COUNT I

INVALIDITY OF THE ILLINOIS ACT

32. Plaintiffs repeat and reallege the contents of paragraphs 1-6 and 9-31, inclusive, of this Second Amended Complaint, as if fully set forth herein.

33. The Illinois Act, as amended, became effective on September 8, 1978. It was intended to regulate and does regulate interstate tender offers.

34. The Illinois Act applies to any "take-over offer" for a "target company" (Illinois Act §2.09). For purposes of the Illinois Act, Chicago Rivet is a "target company" because Chicago Rivet has its principal executive office in Illinois and is organized under the laws of Illinois (Illinois Act §2.10 (2)(a) and (b)). The Illinois Act, therefore, purports to regulate MITE's proposed tender offer for any and all shares of Chicago Rivet common stock.

35. The Illinois Act prevented MITE's proposed tender offer from commencing on January 24, 1979 and for an in-

definite time thereafter. The Illinois Act is invalid for the reasons set forth herein.

36. The Illinois Act violates the Exchange Act, including, but not limited to, Section 28, which preempts state regulation that conflicts with the provisions of the Exchange Act.

37. The Illinois Act violates the Constitution of the United States because it conflicts with, and stands as an obstacle to the accomplishment of, the objectives of Congress expressed in the Williams Act amendments to the Exchange Act and pursuant to the Supremacy Clause contained in Article IV, Clause 2, of the United States Constitution is, therefore, preempted.

38. The Illinois Act violates the Commerce Clause, Article I, Section 8, Clause 3, of the Constitution of the United States because the Illinois Act imposes a substantial, direct and adverse burden on interstate commerce and serves no legitimate local interest adequate to justify the clearly excessive burden on interstate commerce which it imposes.

39. The Illinois Act denies rights protected by and enforceable under 42 U.S.C. §1983.

40. The Illinois Act clearly interferes with the purposes and objectives of the Williams Act. Provisions requiring advance notice of a tender offer, requirements concerning the duration of offers, and pro-rata purchase and withdrawal provisions, among others, of the Illinois Act explicitly conflict with comparable provisions of the Williams Act and constitute obstacles to the accomplishment of objective of the federal statute.

41. The Illinois Act contravenes the purpose and spirit of the Williams Act by upsetting the carefully balanced neutrality of the federal provisions and by providing, contrary to the

Congressional scheme, substantial advantages to the target corporation to defeat or delay a tender offer and by imposing, likewise contrary to Congressional intent, substantial obstacles to the ability and right of shareholders to accept tender offers which fully comply with federal requirements.

42. The Illinois Act as a whole and in particular provisions conflicts with the Williams Act. These provisions include among others the following:

(a) a required minimum twenty business day waiting period before a tender offer can be commenced (Illinois Act §4E), a concept explicitly rejected by Congress;

(b) a mandatory indefinite delay of a tender offer if a majority of the target company's "outside" directors or an Illinois shareholder or group of shareholders holding beneficially or of record 10% of the shares of the target company request a hearing, which must then be held (Illinois Act §7), whereas the Williams Act provides for no pre-tender offer hearings;

(c) a mandatory indefinite delay of a tender offer if the Illinois Secretary of State unilaterally orders a hearing because he determines, in his sole judgment, that such delay is necessary for the protection of Illinois shareholders of the target company (Illinois Act §7.A.), whereas the Williams Act provides for no pre-tender offer hearings;

(d) an indefinite delay of the commencement of an offer in the event a hearing is requested, pending a decision by the Illinois Secretary of State (Illinois Act §7A, C, D), whereas the Williams Act permits the offer to commence immediately.

(e) a required twenty day period for a tender offer to remain open (Illinois Act §9B), whereas the Williams Act permits a tender offer to be completed within seven days of announcement (ten days in the case of a partial offer);

(f) withdrawal rights at any time within seventeen days (Illinois Act §9C), which differs substantially from and is in conflict with the seven day provision under the Williams Act;

(g) denial of effectiveness of a proposed tender offer if, in the sole opinion of the Illinois Secretary of State, (i) the offer is "inequitable" even though federal law requires the marketplace to decide upon the fairness of the offer, or (ii) the offer fails to provide full and fair disclosure to the offerees under Illinois law, even though the offer is in compliance with federal disclosure standards (Illinois Act §7E);

(h) proration of acceptances of a partial offer for the entire period of the offer (Illinois Act §9D), whereas the Williams Act requires proration of only those acceptances made during the initial ten days of the offer;

(i) pre-tender offer disclosures (Illinois Act §4B), which cause substantial disruptions in national securities markets, a requirement which was explicitly rejected by Congress;

(j) burdensome disclosure of speculative and immaterial information (Illinois Act §4C), not required to be disclosed under the Williams Act, with the effect of further delaying a tender offer; and

(k) prohibition of tender offers which are not made to shareholders of the target company who are residents of Illinois on the same terms as to shareholders elsewhere (Illinois Act §9A), the effect of which is that the Illinois Act competes with the Williams Act as a national system of regulation.

43. By impeding plaintiffs' $28 cash tender offer for Chicago Rivet, the Illionis Act imposes a substantial burden on interstate commerce in violation of the Commerce Clause of the Constitution of the United States.

IRREPARABLE INJURY TO PLAINTIFFS AND TO SHAREHOLDERS OF MITE AND CHICAGO RIVET

44. Defendant Dixon intends to enforce the Illinois Act against plaintiffs and their representatives. Actual or threatened enforcement of the Illinois Act by the defendants, unless enjoined, will cause immediate, serious, substantial and irreparable injury to MITE and its shareholders, to MITE Holdings, and to the shareholders of Chicago Rivet in the following respects, among others:

(a) If MITE and MITE Holdings elect to forego commercial activity which is protected by the Williams Act and by the United States Constitution in order to avoid the harsh criminal and civil penalties which noncompliance with the Illinois Act would threaten to impose upon them, they will be deprived of their right under the Williams Act to make their tender offer at a premium above the market price to shareholders of Chicago Rivet who reside throughout the United States, causing the following irreparable injury to MITE and MITE Holdings and to shareholders of CHICAGO RIVET, among others:

(i) MITE and MITE Holding will irretrievably lose the opportunity to acquire Chicago Rivet, a unique company;

(ii) MITE and MITE Holding will be prevented from injecting up to approximately $23 million in interstate commerce; and

(iii) Shareholders of Chicago Rivet residing throughout the United States, including those residing outside of Illinois, will forever lose their right to sell their Chicago Rivet shares pursuant to the tender offer at the substantial premium above market which MITE and MITE Holdings intend and wish to offer them.

(b) If MITE and MITE Holdings go forward with their tender offer notwithstanding the threat of enforcement of the Illinois Act, even though they have fully complied with the Williams Act and have made full and fair disclosure of all material facts to Chicago Rivet shareholders, MITE and MITE Holdings will suffer the following irreparable injury, among others:

(i) MITE, MITE Holdings and their representatives will be subject to criminal penalties for failure to comply with the provisions of the Illinois Act;

(ii) MITE, MITE Holdings and their representatives may be subject to arduous, lengthy and expensive administrative proceedings in which they will be unable fully to raise or have adjudicated their claims that the Illinois Act is unconstitutional; and

(iii) MITE, MITE Holdings and their respresentatives will be subject to civil liabilities for their failure to comply with the unconstitutional Illinois Act.

(c) If MITE and MITE Holdings attempt to avoid the harm and irreparable injury set forth above by foregoing their rights under the Williams Act and the United States Constitution and by complying with the onerous and burdensome requirements of the Illinois Act, MITE, MITE Holdings and Chicago Rivet shareholders will nonetheless suffer the following irreparable injury, among others:

(i) MITE and MITE Holdings will be subjected to unnecessary, unreasonable and possibly indefinite delay of their proposed tender offer, necessitating the expenditure of substantial sums of money, none of which could ever be recovered;

(ii) MITE and MITE Holdings will be required to tie up substantial amounts of money for an indefinite period of time, thereby causing them to forego valuable alternative investment opportunities the monetary value of which is incalculable and unrecoverable; and

(iii) The market for securities of MITE and Chicago Rivet traded on national securities exchanges will be substantially affected and disrupted in a manner which cannot be eliminated or repaired.

45. Plaintiffs have no adequate remedy at law. Only through the exercise of this Court's equitable powers to enjoin the operation of the Illinois Act will MITE, its shareholders, MITE Holdings, Chicago Rivet's shareholders and the public be fully protected from immediate and irreparable loss and damages.

COUNT II

INVALIDITY OF THE PENNSYLVANIA LAW

46. Plaintiffs repeat and reallege the contents of paragraphs 1-6 and 16-31 inclusive of this Second Amended Complaint, as if fully set forth herein.

47. The Pennsylvania Law became effect March 3, 1976. it was intended to regulate and does regulate interstate tender offers.

48. The Pennsylvania Act applies to any "takeover offer" for a "target company" (Pennsylvania Law §3). To qualify as a "target company" for purposes of the Pennsylvania Law, a corporation (1) must be organized under the laws of Penn-

sylvania *or* (2) must have its principal place of business *and* substantial assets located in Pennsylvania (Pennsylvania Law §3).

49. On Monday, January 22, 1979, Chicago Rivet brought suit in the Court of Common Pleas of Blair County, Pennsylvania, Civil Division — Equity, No. 3203 seeking to invoke the Pennsylvania Law against MITE, MITE Holdings, their officers and directors, Wertheim & Co., Inc., and Wertheim & Co. in connection with MITE's proposed tender offer.

50. On Monday, January 22, 1979, Judge Eugene J. Ianuzzi of the Court of Common Pleas of Blair County, Pennsylvania issued an *ex parte* order preliminary enjoining MITE, MITE Holdings, their officers and directors, Wertheim & Co., Inc., and Wertheim & Co. from, among other things, acquiring or attempting to acquire any common stock of Chicago Rivet or making any tender offer involving the common stock of Chicago Rivet.

51. On Monday, January 22, 1979, Chicago Rivet filed a Complaint with the Pennsylvania Securities Commission seeking to invoke the Pennsylvania Law against MITE and MITE Holdings and their officers and directors in connection with MITE's proposed tender offer.

52. The Pennsylvania Law, if applicable, would have prevented MITE's proposed tender offer from commencing on January 24, 1979 and for an indefinite time thereafter. The Pennsylvania Act is invalid for the reasons set forth herein.

53. The Pennsylvania Law violates the Exchange Act, including, but not limited to, Section 28 thereof, which preempts state regulation that conflicts with the provisions of the Exchange Act.

54. The Pennsylvania Law violates the Constitution of the United States because it conflicts with, and stands as an obstacle to the accomplishment of, the objectives of Congress expressed in the Williams Act amendments to the Exchange Act and pursuant to the Supremacy Clause contained in Article IV, Clause 2, of the United States Constitution is, therefore, preempted.

55. The Pennsylvania Law violates the Commerce Clause, Article I, Section 8, Clause 3, of the Constitution of the United States because the Pennsylvania Law imposes a substantial, direct and adverse burden on interstate commerce and serves no legitimate local interest adequate to justify the clearly excesive burden on interstate commerce which it imposes.

56. The Pennsylvania Law denies rights protected by and enforceable under 42 U.S.C. §1983.

57. The Pennsylvania Law contravenes the purpose and spirit of the Williams Act by upsetting the carefully balanced neutrality of the federal provisions and by providing, contrary to the Congressional scheme, substantial advantages to the target corporation to defeat or delay a tender offer and by imposing, likewise contrary to Congressional intent, substantial obstacles to the ability and right of shareholders to accept tender offers which fully comply with federal requirements, all of which constitute obstacles to the accomplishments of objectives of the federal statute.

58. The Pennsylvania Law as a whole and in particular provisions conflicts with the Williams Act. These provisions include among others the following:

(a) a required minimum twenty day waiting period before a tender offer can be commenced (Pennsylvania Law §4(a)), a concept explicitly rejected by Congress;

(b) indefinite delay of a tender offer by hearings which may be commenced by the Pennsylvania Securities Commission on its own intiative or at the request of a target company (Pennsylvania Law §4(d)), whereas the Williams Act provides for no pre-tender offer hearings;

(c) a mandatory indefinite delay of a tender offer if the Pennsylvania Securities Commission summarily determines that the takeover offer fails to provide full and fair disclosure to offerees of all material information (Pennsylvania Law §4(c)), even though the offer is in full compliance with federal disclosure standards;

(d) burdensome disclosure of speculative and immaterial information (Pennsylvania Law §5) not required to be disclosed under the Williams Act, with the effect of further delaying a tender offer; and

(e) adopting a "fiduciary" approach to other regulation of interstate tender offers in conflict with the "market" approach adopted by Congress, exemplified, for example, by the provision which exempts from coverage of the statute tender offers approved by the incumbent board of directors (Pennsylvania Law §8(a)).

59. By impeding plaintiffs' $28 cash tender offer for Chicago Rivet, the Pennsylvania Law imposes a substantial burden on interstate commerce in violation of the Commerce Clause of the Constitution of the United States.

IRREPARABLE INJURY TO PLAINTIFFS AND TO SHAREHOLDERS OF MITE AND CHICAGO RIVET

60. Defendant Chicago Rivet has invoked and continues to invoke the Pennsylvania Law against plaintiffs and their representatives, causing immediate, serious, substantial and irreparable injury to MITE and its shareholders, to MITE

Holdings, and to the shareholders of Chicago Rivet in the following respects, among others:

(a) If MITE and MITE Holdings elect to forego commercial activity which is protected by the Williams Act and by the United States Constitution in order to avoid the harsh criminal and civil penalties which noncompliance with the Pennsylvania Law would threaten to impose upon them, they will be deprived of their right under the Williams Act to make their tender offer at a premium above the market price to shareholders of Chicago Rivet who reside throughout the United States, causing the following irreparable injury to MITE and MITE Holdings and to shareholders of Chicago Rivet, among others:

(i) MITE and MITE Holdings will irretreivably lose the opportunity to acquire Chicago Rivet, a unique company;

(ii) MITE and MITE Holdings will be prevented from injecting up to approximately $23 million in interstate commerce; and

(iii) Shareholders of Chicago Rivet residing throughout the United States, including those residing outside of Pennsylvania, will forever lose their right to sell their Chicago Rivet shares pursuant to the tender offer at the substantial premium above market which MITE and MITE Holdings intend and wish to offer them.

(b) If MITE and MITE Holdings go forward with their tender offer notwithstanding the threat of enforcement of the Pennsylvania Law, even though they have fully complied with the Williams Act and have made full and fair disclosure of all material facts to Chicago Rivet shareholders, MITE and

MITE Holdings will suffer the following irreparable injury, among others:

(i) MITE, MITE Holdings and their representatives will be subject to criminal penalties for failure to comply with the provisions of the Pennsylvania Act;

(ii) MITE, MITE Holdings and their respresentatives may be subject to arduous, lengthy and expensive administrative proceedings in which they will be unable fully to raise or have adjudicated their claims that the Pennsylvania Law is unconstitutional; and

(iii) MITE, MITE Holdings and their representatives will be subject to civil liabilities for their failure to comply with the unconstitutional Pennsylvania Law.

(c) If MITE and MITE Holdings attempt to avoid the harm and irreparable injury set forth above by foregoing their rights under the Williams Act and the United States Constitution and by complying with the onerous and burdensome requirements of the Pennsylvania Law, MITE, MITE Holdings and Chicago Rivet shareholders will nonetheless suffer the following irreparable injury, among others:

(i) MITE and MITE Holdings will be subjected to unnecessary, unreasonable and possible indefinite delay of their proposed tender offer, necessitating the expenditure of substantial sums of money, none of which could ever be recovered;

(ii) MITE and MITE Holdings will be required to tie up substantial amounts of money for an indefinite period of time, thereby causing them to forego valuable alternative investment opportunities the monetary value of which is incalculable and unrecoverable; and

(iii) The market for securities of MITE and Chicago Rivet traded on national securities exchanges will be substantially affected and disrupted in a manner which cannot be eliminated or repaired.

61. Plaintiffs have no adequate remedy at law. Only through the exercise of this Court's equitable powers to enjoin the operation of the Pennsylvania Law will MITE, its shareholders, MITE Holdings, Chicago Rivet's shareholders and the public be fully protected from immediate and irreparable loss and damages.

COUNT III

BREACH OF FIDUCIARY DUTIES, WASTE AND MISMANAGEMENT

62. This count is brought individually and derivatively by plaintiff MITE on behalf of Chicago Rivet & Machine Co. against the director-officer defendants.

63. Plaintiff realleges paragraph 3 through 5 and 6 through 23. MITE was a shareholder of Chicago Rivet prior to the time of the transactions complained of, and has been such a shareholder continuously to the present. MITE presently owns beneficially 23,800 shares of Chicago Rivet common stock.

64. No demand has been made by MITE upon Chicago Rivet or its board of directors to institute and prosecute an action against the defendants named in this Count III for the acts and transactions herein complained of, for the reason that all the present officers and directors of Chicago Rivet are named as defendants herein and are responsible for the acts, transactions and delinquencies herein complained of. No action could be or would be permitted to be instituted by

Chicago Rivet without the consent of its directors and demand upon them would be entirely useless and futile. Chicago Rivet's board of directors could not and would not diligently prosecute this action, because by doing so the directors would, in effect, be suing themselves.

65. No demand has been made by MITE upon the shareholders of Chicago Rivet to bring this action because to do so would be useless and futile. The transactions complained of herein are illegal, null and void and cannot be ratified by less than the unanimous consent of the stockholders.

66. This is not a collusive action to confer upon a court of the United States jurisdiction of an action which it would not otherwise have.

67. The directors and executive officers of Chicago Rivet collectively own a total of 101,904 shares of Chicago Rivet common stock, including 21,600 shares held by an employees trust of which certain director-officer defendants are trustees. Thus, these directors and officers personally own approximately 80,304 shares or approximately 9.3% of all outstanding CHICAGO RIVET shares.

68. On February 5, 1979, defendant Chicago Rivet made an offer to purchase up to at least 350,000 shares of its own common stock for cash at $30 net per share (the "Chicago Rivet offer"). The offer will expire at 4:00 p.m. C.S.T. February 14, 1979, 15 hours prior to the expiration of the MITE offer. These shares will be placed in the treasury and will cease to be outstanding. The Chicago Rivet offer is attached as Exhibit 1 to this Second Amended Complaint.

69. The Chicago Rivet offer states that holders of 285,000 Chicago Rivet shares including all of Chicago Rivet directors

and officers have stated that they do not intend to tender their shares either to Chicago Rivet or to MITE Holdings. 285,000 shares is 32.8% of all outstanding Chicago Rivet shares. The holders of these shares other than the directors and officers are not identified in the Chicago Rivet offer and their identities are presently unknown to plaintiffs.

70. If the Chicago Rivet offer is consummated, the total of outstanding Chicago Rivet shares will be reduced from 866,264 to 516,264, and the group holding 285,000 shares will own approximately 55% of all outstanding Chicago Rivet shares.

71. The Chicago Rivet offer embodies a plan and conspiracy to reduce the number of outstanding shares of Chicago Rivet common stock so as to confer effective control of Chicago Rivet upon the director-officer defendants who individually own only 9.3% of Chicago Rivet's common stock and other unidentified members of their group.

72. The Chicago Rivet offer states that it will reduce the book value per share of Chicago Rivet stock from $24.06 per share to $19.85 per share.

73. The Chicago Rivet offer states:

> "This offer is being made despite the belief of the Board of Directors that the price is inadequate, because of a desire to permit shareholders who wish to sell their stock to do so at a higher price and without selling to MITE Holdings, Inc." (Ex. 1, cover page)
>
> "To the extent that shares of Stock are purchased pursuant to the Offer, there may be fewer outstanding shares of Stock remaining in the hands of

shareholders willing to tender pursuant to an offer by MITE or another offeror (if any). As a result, the Offer may also have the effect of discouraging MITE or other possible offerors (if any) from making an offer to purchase shares of Stock, whether for greater or for lesser consideration than that offered herein." (Ex. 1, p. 7.)

74. The Chicago Rivet offer falsely states that MITE has indicated that if it acquires control it may change Chicago Rivet's business policies and that MITE has not disclosed changes in business policy which it intends. That offer also contains a statement that MITE has refused to respond to a request for information. This statement in context conveys the false impression that MITE refused to respond to a request for information concerning its intentions concerning changes in Chicago Rivet's business policy or corporate structure when no such request was ever made of MITE by Chicago Rivet.

75. The Chicago Rivet offer is in violation of the director-officer defendants' fiduciary duties and constitutes waste and mismanagement of corporate assets and improper expenditure of corporate funds for, among others, the following reasons:

a. The offer has no valid corporate purpose.

b. The offer reduces book value per share.

c. The offer transfers share control of Chicago Rivet to the director-officer defendants and their group without any personal expenditure by these defendants or their group.

d. The offer threatens to deprive the remaining holders of 221,000 Chicago Rivet shares of the benefits of the MITE offer, which is made for any and all Chicago Rivet shares.

e. Defendant directors and each of them authorized the Chicago Rivet offer despite a conflict of interest which should have prevented them from approving expenditure of corporate funds to transfer share control to them and their group for no consideration.

f. The offer is a stratagem designed to discourage and prevent the MITE offer;

g. The defendant directors recommended against any shareholder tendering his shares pursuant to the Chicago Rivet offer, thereby (i) estopping the directors from claiming a valid purpose for that offer and (ii) confirming its manipulative and illegal intent;

h. The mere announcement of the Chicago Rivet offer was designed to impede, and will, if permitted to continue, have the effect of impeding the consummation of the MITE cash offer at $28 per share, with the purpose of perpetuating the director-officer defendants in control and depriving the other Chicago Rivet shareholders of the benefits of the MITE offer.

76. The director-officer defendants' other activities to resist, delay and defeat MITE's tender offer for no proper purpose as alleged hereinabove also constitute a breach of fiduciary duty, waste and mismanagement of corporate assets and improper expenditure of corporate funds, for which these defendants should account.

77. Chicago Rivet's offer will cause further immediate, serious, substantial and irreparable injury to Chicago Rivet and its shareholders by depriving them of the benefits of the MITE offer. These benefits cannot be measured in damages. There is no adequate remedy at law.

COUNT IV

VIOLATION OF SECTION 14(e) OF THE EXCHANGE ACT

78. This Count IV is brought by plaintiffs MITE Corporation and MITE Holdings, Inc. against all defendants except Dixon.

79. Plaintiffs reallege paragraphs 63 and 67 through 77 of Count III.

80. Chicago Rivet's offer contains untrue statements of material fact and omits to state material facts necessary to make statements made therein, in light of the circumstances in which they were made, not misleading, in violation of Section 14(e) of the Exchange Act, in among others, the following respects:

a. The offer fails to disclose the identity of the holders of 285,000 shares of Chicago Rivet stock other than officers or directors holding 101,904 shares who together with the officers and directors have stated their intention not to tender their shares.

b. The offer fails to state that upon successful completion of the offer, the 285,000 share group will own approximately 55% of Chicago Rivet's stock and will effectively control Chicago Rivet.

c. The offer fails to disclose the plans, purposes, agreements, consideration, or any other matters concerning the intentions of the 285,000 share group.

d. The offer falsely conveys the impression that the directors urge shareholders not to tender to Chicago Rivet while at the same time brokers and dealers nationwide are offered a 30 cent per share solicitation fee.

e. The offer falsely states that MITE failed to disclose its intentions concerning the business plans and corporate structure of Chicago Rivet.

f. The offer fails to state that the information request to which MITE declines to respond had no relation to its intentions concerning Chicago Rivet's business or corporate structure.

81. The Chicago Rivet offer is a fraudulent, deceptive and manipulative practice in connection with the MITE offer and with solicitation against the MITE offer in violation of Section 14(e) of the Exchange Act, in among others the following respects:

a. The offer fraudulently and deceptively conveys the impression that the MITE offer is inadequate.

b. The offer uses corporate funds to establish a bidding contest for Chicago Rivet's shares when in fact there is no other bidder than MITE.

c. The offer, even if it is never consummated, poisons the market for the MITE offer when in fact there is no viable alternative bidder than MITE for Chicago Rivet's stock.

d. The offer uses corporate funds to convey share control to the 285,000 share group while preventing the proper operation of an auction market for Chicago Rivet's stock.

e. The offer's excess shares provision (Ex. 1, p. 5) is an inherently fraudulent inducement to tender because MITE may withdraw its offer after the Chicago Rivet offer is closed and because in any event the 15 hours between the closing of the two offers is insufficient time to complete the tender to MITE.

82. MITE will be seriously, substantially and irreparably injured by the Chicago Rivet offer. MITE has no adequate remedy at law.

WHEREFORE, MITE and MITE Holdings ask the Court to grant the following relief:

A. A judgment declaring the Illinois Act null and void;

B. A judgment declaring the Pennsylvania Law null and void;

C. A temporary restraining order, preliminary injunction and permanent injunction enjoining and restraining the defendants Dixon and Chicago Rivet, their successors in office, agents, servants, employees, and attorneys, and all persons in active concert or participation with them from taking any action whatsoever to invoke, enforce or apply the Illinois Act, or any other provisions of state law incorporated by reference therein, or any orders, rules or regulations issued pursuant thereto, against plaintiffs or those acting on their behalf in connection with the proposed cash tender offer by MITE and MITE Holdings for any and all of the shares of CHICAGO RIVET;

D. A temporary restraining order, preliminary injunction and permanent injunction enjoining and restraining the defendant, Chicago Rivet, its agents, servants, employees, and attorneys, and all persons in active concert or participation with it from taking any action whatsoever to invoke, enforce or apply the Pennsylvania Law or any other provision of state law incorporated by reference therein, or any orders, rules or regulations issued pursuant thereto, or the law of any other state purporting to regulate interstate tender offers against plaintiffs or those acting on their behalf in connection with the proposed cash tender offer by MITE and MITE Holdings for any and all of the shares of CHICAGO RIVET;

E. A temproary restraining order, preliminary injunction and permanent injunction enjoining and restraining the defendants Chicago Rivet, Walter W. Morrissey, John A.

Morrissey, John H. Tonn, Thomas P. Ward, Paul M. Wade, Ralph W. Jindrich, Bernard J. Hank, Jr., Robert B. Branstetter, Robert K. Brown, Clarence E. Damhorst, Donald A. McCormick, Will H. Shineflug, Richard A. Keeler, Margaret M. O'Connell, Timothy A. Olson and Oliver T. Mann, their agents, servants, employees, attorneys, successors and assigns and all persons in active concert or participation with them, from proceeding with Chicago Rivet's cash tender offer for 350,000 shares of Chicago Rivet common stock and directing them to communicate to Chicago Rivet's shareholders the withdrawal of the offer, together with appropriate statements correcting material omissions and misstatements in that offer.

F. An order requiring Walter W. Morrissey, John A. Morrissey, John H. Tonn, Thomas P. Ward, Paul M. Wade, Ralph W. Jindrich, Bernard J. Hank, Jr., Roger B. Branstetter, Robert K. Brown, Clarence E. Damhorst, Donald A. McCormick, Will H. Shineflug, Richard A. Keeler, Margaret M. O'Connell, Timothy A. Olson and Oliver T. Mann, to account to Chicago Rivet for their waste, and mismanagement of corporate assets and improper expenditures of corporate funds.

G. A judgment in favor of MITE and MITE Holdings against Walter W. Morrissey, John A. Morrissey, John H. Tonn, Thomas P. Ward, Paul M. Wade, Ralph W. Jindrich, Bernard J. Hank, Jr., Robert B. Branstetter, Robert K. Brown, Clarence E. Damhorst, Donald A. McCormick, Will H. Shineflug, Richard A. Keeler, Margaret M. O'Connell, Timothy A. Olson and Oliver T. Mann, for damages suffered by plaintiffs as a result of these defendants wrongful conduct as alleged hereinabove.

H. A judgment for the costs of this action, including reasonable attorneys' fees; and

I. Such other and further relief as the Court shall deem just and proper.

(s) Chester T. Kamin
One of the attorneys for plaintiffs MITE Corporation and MITE Holdings, Inc.

Chester T. Kamin
Michael J. Rovell
Ronald L. Marmer
Robert A. Wason, IV
JENNER & BLOCK
One IBM Plaza
Chicago, Illinois 60611
(312) 222-9350

Of Counsel
Richard W. Hulbert
Christopher H. Lunding
Thomas J. Moloney
CLEARY, GOTTLIEB, STEEN & HAMILTON
One State Street Plaza
New York, New York 10004
(212) 344-0600

VERIFICATION

Robert J. Blinken states on oath that he is Chairman of the Board and Chief Executive Officer of MITE Corporation and of MITE Holdings, Inc., that he has read the within and foregoing Second Amended Complaint and that the facts

alleged therein are true to the best of his knowledge, information and belief.

(s) Robert J. Blinken

Signed and sworn to before me
his 7th day of February,
1979.

(s) June Mullen
Notary Public

EXHIBIT 1

OFFER TO PURCHASE

350,000 Shares of Its

Common Stock
par value $2.00 per share,

by

CHICAGO RIVET & MACHINE CO.

For Cash at $30.00 Net Per Share

The Offer Will Expire February 12, 1979
at 4:00 p.m., Chicago Time Unless Extended

Any shareholder wishing to accept the Offer should either (a) complete and sign the Letter of Tender and forward it with his stock certificates and any other documents required by the Letter of Tender to the Depositary or (b) request his bank or broker to effect the transaction for him. Holders of shares registered in the name of a broker, dealer, bank or other nominee should contact such broker, dealer, bank or nominee if they desire to tender their shares.

MITE Holdings, Inc., a wholly-owned subsidiary of MITE Corporation, has commenced a tender offer for any and all shares of common stock of the Company for cash at $28.00 net per share. The Board of Directors of the Company has decided not to support MITE'S offer because it has determined that the offer is inadequate. The Board of Directors has

also determined that MITE'S offer is not in the best interests of the Company and its shareholders because MITE has indicated that, if it acquires control of the Company, it may change the Company's business policies and corporate structure. While the Board cannot forecast all changes in business policy and corporate structure which MITE intends because MITE has not disclosed them and has refused to respond to a request for information, MITE has stated that it intends to make one change which the Board believes detrimental and that it may make another change which the Board also believes to be detrimental. MITE'S stated intention, if it acquires a substantial number of shares, is to merge the Company with MITE or an affiliate of MITE solely in exchange for cash or unsecured short-term notes, thereby depriving non-tendering shareholders of their equity interest in the Company. MITE may also reduce the Company's cash dividends to its shareholders. The Board believes such a reduction is not desired by many shareholders and may lower the market price of the Company's stock so that MITE would later be able to acquire the shares of non-tendering shareholders at less than its present offering price.

THE BOARD OF DIRECTORS RECOMMENDS AGAINST ANY SHAREHOLDER TENDERING HIS SHARES PURSUANT TO EITHER MITE'S OFFER OR PURSUANT TO THIS OFFER. The Board of Directors believes that neither offer contains the best terms that can be obtained for common stock of the Company, and is actively seeking higher offers. The Directors have advised the Company that they have been advised that holders (including all Directors and officers of the Company) of approximately 285,000 shares do not intend to tender either to MITE or to the Company. In the Board's judgment, the value of the Company's stock to a person seeking a controlling interest in

the Company is greater than $30.00 per share, and, again in the board's opinion, given sufficient time an offer at such a price would become available. However, there can be no assurance that any such offer in fact will become available. Prior to January 19, 1979, the date of MITE's announcement of its proposed offer for the Company's stock at $28.00 per share, the market price of the Company's common stock was substantially below that figure. See Section 10, "Price Range of the Stock; Dividends". This offer is being made, despite the belief of the Board of Directors that the price is inadequate, because of a desire to permit shareholders who wish to sell their stock to do so a a higher price and without selling to MITE Holdings, Inc.

The Company reserves the right to amend this offer without notice in the event that MITE's offer is amended.

To the Holders of Common Shares,
par value $2.00 per share,
of Chicago Rivet & Machine Co.

Chicago Rivet & Machine Co., an Illinois corporation (the "Company"), the principal executive offices of which are located at 950 South 25th Avenue, Bellwood, Illinois 60104, hereby offers (the "Offer") to purchase 350,000 shares of its Common Stock, par value $2.00 per share (the "Stock"), at $30.00 net per share to the seller in cash, upon the terms and subject to the conditions set forth herein and in the accompanying Letter of Tender. The Offer is being made to all holders of the Stock, including officers, directors and control persons of the Company. Tendering shareholders will not be obliged to pay brokerage commissions, fees or transfer taxes on the purchase by the Company if payment is made directly to the registered holder. See Instruction 4 of the Letter of Tender. While the Offer is outstanding, the Company will not purchase any shares of the Stock except pursuant to the Offer.

Since the January 19, 1979 announcement by MITE Corporation ("MITE") of its intention to make a tender offer for the Stock, through its wholly-owned subsidiary, MITE Holdings, Inc. ("Holdings") at a price of $28.00 net per share, the Stock has traded on the American Stock Exchange at prices ranging from $28⅛ to $29¼ per share. On February 2, 1979, the last day for which information was available before the printing of this Circular, such closing price was $28⅜. The closing price of the Stock on the American Stock Exchange was $22⅜ on January 12, 1979, one week before MITE's announcement. See Section 10, "Price Range of the Stock; Dividends." Shareholders may wish to obtain a more recent price quotation from a broker or a newspaper before acting on the Offer.

MITE has commenced a tender offer for all or any shares of the Stock for cash at $28.00 net per share. The Board of Directors of the Company has determined not to support this offer. Its decision reflects a judgment that the price offered by MITE is too low and that MITE's offer is not in the best interest of the Company and its shareholders. Both the price offered by MITE and the price offered herein are less than the amount which an independent firm of investment and financial analysts recently determined to be the value per share of the Company's stock to a person seeking a controlling interest in the Company. See Section 8, "Purposes and Possible Effects of Offer."

The Offer is not conditioned upon any minimum number of shares of the Stock being tendered, and the Company is obligated to purchase all Stock duly tendered up to 350,000 shares. If more than 350,000 shares of Stock are duly tendered by February 12, 1979, the Company may elect, but shall not be obligated, to purchase all or any of such excess.

The Company has the right to amend this Offer without notice in the event that MITE's offer is amended, and to amend or terminate the Offer in certain other circumstances. See Section 13, "Certain Conditions of Offer."

Shareholders desiring assistance concerning the Offer should contact their broker, dealer, commercial bank or trust company. Questions and requests for additional copies of this Offering Circular and the Letter of Tender may also be directed to the Information Agent at its addresses and telephone numbers listed on the back cover of this Offering Circular.

TABLE OF CONTENTS

Section		Page
1.	Number of Shares	3
2.	Extension to Offer Period	3
3.	Payment of Purchase Price; Source of Funds	3
4.	Tender of Shares	4
5.	Conditional Tender of Shares	5
6.	Tendering Over of Excess Shares	5
7.	Withdrawal Rights	6
8.	Purposes and Possible Effects of Offer	6
9.	Certain Financial Effects of Offer	8
10.	Price Range of the Stock; Dividends	9
11.	Description of the Stock	10
12.	Participation of Officers and Directors	11
13.	Certain Conditions of Offer	12
14.	General Information About the Company	12
15.	Federal Income Tax Consequences	13
16.	Recent Developments and Litigation	14
17.	Solicitation and Other Fees	15
18.	Miscellaneous	15

No person has been authorized to give any information or to make any representations in connection with the Offer other than those contained herein and in the Letter of Tender, and if given or made, such information or representations must not be relied upon as having been authorized by the Company.

1. *Number of Shares.* The Company will, subject to the conditions set forth herein and in the accompanying Letter of Tender, purchase up to 350,000 shares of the Stock if duly tendered prior to 4:00 p.m., Chicago Time, on February 12, 1979 (such time and date being hereinafter referred to as the "Initial Expiration Date"). On February 5, 1979, there were 866,264 shares of Stock outstanding. The 350,000 shares of the Stock to which the Offer relates represented approximately 40% of the Stock outstanding as of that date.

If more than 350,000 shares of the Stock are duly tendered prior to the Initial Expiration Date, the Company may elect, but shall not be obligated, to purchase all or any of such excess. If the Company purchases less than all shares of the Stock tendered prior to the Initial Expiration Date, it will make such purchases on a pro rata basis according to the number of shares tendered by each shareholder (with appropriate adjustments to avoid purchases of fractional shares), subject to the conditions set forth in Section 5, "Conditional Tender of Shares," except that all shares duly tendered by any holder of record February 5, 1979 of less than 100 shares of the Stock will be purchased if the holder tenders all of the shares held by him of record and beneficially. The Company estimates that there were approximately 730 holders of record on such date of less than 100 shares, and that such holders held, in the aggregate, approximately 23,300 shares of the Stock. If fewer than 350,000 shares of the Stock are duly tendered prior to the Initial Expiration Date, the Company will purchase all shares tendered.

2. *Extension of Offer Period.* The Company reserves the right to extend the period of the Offer at any time and from time to time, but in no event will the Company be obligated to purchase more than 350,000 shares pursuant to the Offer. If the Offer is extended, all shares tendered prior to the Initial Expiration Date will be purchased before any shares tendered during any extended period are purchases. If less than all shares tendered during any extended period are purchased, the shares to be purchased will be selected in the order tendered unless otherwise specified in the notice extending the Offer. The later of the Initial Expiration Date and the latest time and date to which the Offer may be so extended is hereinafter referred to as the "Expiration Date."

3. *Payment of Purchase Price; Source of Funds.* Payment for all shares of the Stock purchased pursuant to the Offer will be made on behalf of the Company by The First National Bank of Chicago (the "Depositary"), as soon as practicable following the Initial Expiration Date. In the event the Company should elect to extend the offer, shares duly tendered after the Initial Expiration Date, if purchased, will be paid for on a daily basis, if practicable. All shares not purchased will be returned without expense to the tendering shareholders. The Company will pay any transfer taxes payable on the transfer to it of shares of the Stock purchased pursuant to the Offer if payment is made directly to the registered holder thereof. See Instruction 4 of the Letter of Tender. The company estimates that the total funds (including expenses and fees) required to purchase the entire amount of shares of the Stock subject to the Offer will be $10,700,000. The Company will obtain up to $4,500,000 of such amount from its general corporate funds and has received a commitment from Continental Illinois National Bank and Trust Company of Chicago (the "Bank") for a loan of up to $10,000,000 (the "Loan"). The Loan would be

unsecured and would initially be in the form of a revolving credit for a period of eighteen months, whereupon it would be converted into an eight-year term loan in the amount of the principal balance then outstanding, payable in 32 equal quarterly installments. Interest would be payable quarterly on the principal balance from time to time outstanding, at an annual rate equal to (i) ½ of 1% plus the Bank's prime rate in effect from time to time, during such periods as the principal balance is less than $7,000,000 and (ii) 1% plus the Bank's prime rate in effect from time to time, during such periods as the principal balance exceeds $7,000,000. The Loan could be prepaid in whole or in part at any time without penalty. During the initial eighteen-month period, the Company would pay a commitment fee at an annual rate of ½ of 1% of the average unused portion, if any, of the $10,000,000 credit. The Company would also be required to pay an annual balance deficiency fee at the Bank's prime rate from time to time on the average amount, if any, by which the Company's demand deposit accounts with the Bank are less than (i) 15% of the total available credit during the initial eighteen-month period of the Loan, and (ii) thereafter 15% of the average daily outstanding principal balance of the term loan.

In connection with the Loan, the Company would also agree to observe certain covenants requiring the Company to maintain minimum levels of cash flow, earnings and tangible net worth. The Company and the Bank have not yet agreed on the specific minimum amounts to be required by those covenants. One effect of these covenants will be to restrict the amounts of the Company's funds which would be available for distribution as dividents to the Company's shareholders. Depending on the specific minimum amounts involved and the Company's net income and cash flow during the period the Loan remains outstanding, the covenants could in some

circumstances require diminution or elimination of some or all of the Company's regular and special dividends. The covenants would remain in effect during such period as any portion of the Loan (including interest) remained unpaid.

The commitment also contains other customary provisions, including a provision requiring the Company to indemnify the Bank.

The Company anticipates that it would repay the Loan from internally generated funds and from other sources, which may include the proceeds of other borrowings, although the Company has no commitments or arrangements in this regard.

4. *Tender of Shares.* Except as hereinafter provided, for a shareholder to tender shares of the Stock pursuant to the Offer, certificates for the shares, together with a properly completed and duly executed Letter of Tender and any other documents required thereby, must be received by the Depositary at one of its addresses set forth below prior to the Expiration Date. Signatures on the Letter of Tender must be guaranteed by a commercial bank or trust company having an office or branch in the United States or by a member of a registered national securities exchange or of the National Association of Securities Dealers, Inc. (an "Eligible Institution"), except in cases where shares are tendered for the account of an Eligible Institution.

Tenders of shares of the Stock may be made without concurrent deposit of certificates if made through an Eligible Institution. In such cases (i) the Letter of Tender, properly completed and duly executed, must be received by the Depositary prior to the Expiration Date and (ii) the Letter of Tender must contain a guarantee executed by an Eligible Institution that all certificates and any other documents required by the Letter of

Tender will be delivered not later than eight American Stock Exchange trading days after receipt by the Depositary of such guarantee. Payment for shares tendered pursuant to a Letter of Tender containing such guarantee of delivery will be made only after receipt by the Company of certificates therefor and any other documents required by the Letter of Tender.

If a shareholder desires to tender shares of the Stock pursuant to the Offer but time will not permit the Letter of Tender and any other documents required thereby to reach the Depositary prior to the Expiration Date, such shares may nonetheless be tendered, provided:

(a) the certificates for all tendered shares (if available), a properly completed and duly executed Letter of Tender and any other required documents have been delivered to an Eligible Institution;

(b) the Depositary has received, prior to the Expiration Date, a telegram or letter from such Eligible Institution setting forth the name of the shareholder, the number of shares tendered, stating whether or not the tender is conditioned on a minimum number of shares being purchased from the shareholder (and if so, setting forth such minimum), stating whether or not the shareholder directs the Depositary to tender over shares which the Company does not purchase to MITE (see Section 6, "Tendering Over of Excess Shares") and stating that the tender is being made thereby and guaranteeing that within eight American Stock Exchange trading days thereafter the certificates for all tendered shares, together with a properly completed and duly executed Letter of Tender and any other documents required thereby will be received by the Depositary; and

(c) the certificates for all tendered shares and a properly completed and duly executed Letter of Tender and any

other documents required thereby are received by the Depositary within eight American Stock Exchange trading days after the date of the Depositary's receipt of the telegram or letter described in clause (b).

Payment for shares tendered pursuant to the procedure described in clauses (a), (b) and (c) above will be made only after receipt by the Depositary of certificates therefor, a properly completed and duly executed Letter of Tender and any other documents required by the Letter of Tender.

All questions as to validity, form, eligibilty (including time of receipt) and acceptance of any tender of shares will be determined by the Company, whose determination shall be final and binding. The Company reserves the right to reject any tenders of shares not in appropriate form. The Company also reserves the right to waive any of the conditions of the Offer or any defect in any tender. The Company and the Depositary shall not be obligated to give notice of any defects or irregularities in tenders and shall not incur any liability for failure to give any such notice.

5. *Conditional Tender of Shares.* Under certain circumstances set forth in Section 1, "Number of Shares," the Company will prorate the number of shares of the Stock purchased pursuant to the Offer according to the number of shares tendered by each shareholder (except in the case of holders of record on February 5, 1979 of less than 100 shares of the Stock who tender all of the shares held by them of record and beneficially). The number of shares which will be accepted from any one shareholder pursuant to the Offer therefore cannot be determined in all cases prior to the Initial Expiration Date. For the reasons described in Section 14, "Federal Income Tax Consequences," the number of shares of the Stock accepted from a particular shareholder might affect such shareholder's decision whether to tender.

A shareholder may tender shares of the Stock subject to the condition that a designated minimum number must be purchased from such shareholder by so indicating such number in the box captioned "Conditional Tender" on the Letter of Tender. If the procedure described in the third paragraph of Section 4, "Tender of Shares" is followed, then such minimum number should also be specified in the letter or telegram sent to the Depositary pursuant to clause (b) of such paragraph. Such minimum number may be all or less than all of the shares tendered. If the effect of accepting tenders on a pro rata basis is to reduce the number of shares of the Stock to be purchased from any shareholder below the minimum number so designated, such tender will automatically be regarded as withdrawn and all shares tendered will be returned as soon as practicable thereafter.

6. *Tendering Over of Excess Shares.* A tendering shareholder may direct that any shares of the Stock tendered by him to the Company pursuant to the Offer which are not purchased by the Company (the "Excess Shares") are to be tendered over by the Depositary, on behalf of the tendering shareholder, to MITE pursuant to MITE's current offer to purchase Stock. The Depositary will issue in its own name one or more certificates representing all of the Excess Shares of the tendering shareholders which are to be tendered over, will tender over such certificate or certificates to MITE, and upon purchase of such Excess Shares by MITE will forward the proceeds thereof to the respective tendering shareholders. Neither the Company nor the Depositary (1) will have any obligation with respect to the tender over to MITE beyond the making of the tender and the forwarding of all proceeds received therefrom to the respective tendering shareholders, or (2) will guarantee the acceptance of such Excess Shares by MITE nor the payment for such Excess Shares by MITE. In the event of prior

withdrawal of MITE's offer, such Excess Shares will be returned to the respective tendering shareholders as soon as practicable.

A shareholder may direct that the Depositary tender over his Excess Shares to MITE, as described above, by placing an "X" in the box captioned "Tender Over of Excess Shares to MITE" on the Letter of Tender. If the procedure described in the third paragraph of Section 4, "Tender of Shares" is followed, then such direction to tender over Excess Shares should also be indicated in the letter or telegram sent to the Depositary pursuant to clause (b) of such paragraph.

7. *Withdrawal Rights.* Tenders made pursuant to the Offer will be irrevocable, except that (i) any shares of the Stock tendered may be withdrawn prior to 4:00 p.m., Chicago Time, on February 12, 1979, and (ii) shareholders may in any event withdraw tendered shares at any time after 4:00 p.m., Chicago Time, on April 6, 1979, if for any reason such shares have not been previously purchased or returned by the Company. To be effective, a written or telegraphic notice of withdrawal must be timely recieved by the Depositary at one of its addresses specified below. Any notice of withdrawal must specify the name of the tendering shareholder, the name of the registered holder if different from that of the tendering shareholder, the number of shares of the Stock to be withdrawn and, if available,the serial numbers of the particular certificates evidencing the shares to be withdrawn. All questions as to the validity, including time of receipt, of notices of withdrawal will be determined by the Company, whose determination shall be final and binding.

8. *Purposes and Possible Effects of Offer.* As described in Section 16, "Recent Developments and Litigation," MITE announced on January 19, 1979, that it proposed to make an of-

fer, through its wholly-owned subsidiary, Holdings, to purchase all or any outstanding shares of Stock for cash at $28.00 per share. MITE commenced its offer on February 5, 1979.

The Board of Directors of the Company has determined, without a dissenting vote, that it will not support MITE's offer. The Board's decision reflects a judgment that $28.00 per share is too low a price. The Board of Directors has also determined that MITE's offer is not in the best interests of the Company and its shareholders because MITE has indicated that, if it acquires control of the Company, it may change the Company's business policies and corporate structure. While the Board cannot forecast all changes in business policy and corporate structure which MITE intends because MITE has not disclosed them and has refused to respond to a request for information, MITE has stated that it intends to make one change which the Board believes detrimental and that it may make another change which the Board also believes to be detrimental. MITE's stated intention, if it acquires a substantial number of shares, is to merge the Company with MITE or an affiliate of MITE solely in exchange for cash or unsecured short-term notes, thereby depriving non-tendering shareholders of their equity interest in the Company, MITE may also reduce the Company's cash dividends to its shareholders. The Board believes such a reduction is not desired by many shareholders and may lower the market price of the Company's stock so that MITE would later be able to acquire the shares of non-tendering shareholders at less than its present offering price.

The value of the Company's Stock to a person seeking a controlling interest in the Company was recently determined to be approximately $33.50 to $35.25 per share by Duff and Phelps, Inc., 55 East Monroe Street, Chicago, Illinois, independent investment and financial analysts, in a study com-

missioned by the Company in December, 1978. The study utilized a variety of analytical techniques, using current and historical business and financial information about the Company and other comparable industrial firms.

For the above-stated reasons, the Board does not recommend that shareholders of the Company tender any shares of stock either to MITE or to the Company pursuant to this Offer. The Board does not represent that the Offer is adequate, and does not recommend that any shareholders tender their shares of Stock pursuant to it. The executive officers and directors of the Company and its subsidiaries have advised the Company that they have no present intention to tender any shares of Stock either pursuant to the Offer or pursuant to the MITE offer. The directors have also advised the Company that they have been advised that holders (including all directors and officers of the Company) of approximately 285,000 shares do not intend to tender either to MITE or to the Company. The Board does not believe that either the Offer or the MITE offer represents the highest price per share that could be obtained in any offer to purchase Stock, and is actively seeking higher offers. In the Board's judgment, the value of the Company's stock to a person seeking a controlling interest in the Company is greater than $30.00 per share, and, again in the Board's opinion, given sufficient time an offer at such a price would become available. However, there can be no assurance that any such offer in fact will become available. Prior to January 19, 1979, the date of MITE's announcement of its proposed offer for the Company's stock at $28.00 per share, the market price of the Company's common stock was substantially below that figure. See Section 10, "Price Range of the Stock; Dividends". The Offer is being made despite the belief of the Board of Directors that the price is inadequate, because of a desire to permit shareholders who wish to sell

their stock to do so at a higher price and without selling to MITE Holdings, Inc.

In the event that 350,000 shares of Stock are purchased by the Company pursuant to the Offer, the percentage of the total number of outstanding shares of Stock represented by all of the shares held of record or beneficially by the executive officers and directors of the Company and its subsidiaries (including shares held by the Chicago Rivet & Machine Co. Employees' Trust) will increase from approximately 11.8% to approximately 19.7%, thereby increasing the aggregate voting power which could be exercised by such executive officers and directors relative to the holders of the remaining shares of outstanding Stock. Those executive officers and directors have advised the Company that they have no present intention to purchase any additional shares of Stock. (See Section 12, "Participation of Officers and Directors.")

In the event that more than 350,000 shares of the Stock are tendered pursuant to the Offer prior to the Initial Expiration Date, the Company may purchase less than the total number of shares tendered (but not less than 350,000), and in such event will accept the shares tendered by each shareholder pro rata according to the number of shares tendered by him (except for holders of less than 100 shares who tender all of their shares of Stock held of record or beneficially, all of which will be purchased.) See Section 1, "Number of Shares." In the event of proration, tendering shareholders (other than such holders of less than 100 shares and shareholders who elect to have their excess shares tendered to MITE under the procedure described in Section 6, "Tendering Over of Excess Shares") will remain the owner of some shares of Stock. In such event, there may be adverse tax consequences for some or all of such tendering shareholders. See Section 15, "Federal Income Tax Consequences."

To the extend that shares of Stock are purchased by the Company pursuant to the Offer, the number of shares that would have to be purchased by any other person in order to acquire a majority of the outstanding shares of Stock will be reduced. In the event that MITE or another offeror (if any) proceeds with an offer to purchase Stock and succeeds in acquiring more than 50% of the shares of Stock remaining outstanding, the shareholders of the Company other than MITE or such other offeror will possess, in the aggregate, a minority of the remaining shares of Stock outstanding. Such an event could adversely affect the market price or the liquidity, or both, of such remaining shares of Stock.

To the extent that shares of Stock are purchased pursuant to the Offer, there may be fewer outstanding shares of Stock remaining in the hands of shareholders willing to tender pursuant to an offer by MITE or another offeror (if any). As a result, the Offer may also have the effect of discouraging MITE or other possible offerors (if any) from making an offer to purchase shares of Stock whether for greater or for lesser consideration than that offered herein. However, there are no contracts, arrangements, understandings, or relationships between the Company and MITE or any other party regarding the making of either the Offer, MITE's proposed offer, or any other possible offer, and any decision regarding MITE's proposed offer or any other such possible offer will be made solely by MITE or by such other offeror, if any.

The purchase of shares of the Stock pursuant to the Offer will reduce the number of shares of the Stock that might otherwise trade publicly and, depending upon the number of shares so purchased, could adversely affect the liquidity and market value of the remaining shares of Stock held by the public.

The Stock is currently admitted to unlisted trading privileges on the American Stock Exchange. As of January 19, 1979, there were 2,181 record holders of shares of the Stock, and there were 866,264 shares outstanding. Depending upon the number of shares of Stock purchased pursuant to the Offer, the Stock may not continue to meet requirements for continued trading on the American Stock Exchange. Published guidelines of the American Stock Exchange indicate that it would consider removing the Stock from unlisted trading privileges (i) if the total number of shareholders of record were less than 600 or the number of holders of 100 shares or more were less than 400 or (ii) if the number of publicly held shares (exclusive of holdings of officers, directors, controlling shareholders or other family or concentrated holdings) were less than 200,000 or (iii) if the aggregate market value of publicly held shares (exclusive of management and concentrated holdings) were less than $1,000,000. In addition, the rules of the American Stock Exchange applicable to companies whose stock is listed require that tender offers similar to the Offer must remain open for a minimum of 14 days. While this rule is not technically applicable to the Stock because the Stock is admitted to unlisted trading privileges but not listed on the Exchange, in the event that the Offer is not extended past the Initial Expiration Date and is not held upon for a total of at least 14 days, the Exchange might take action to deny unlisted trading privileges to the Company and thereby cease to permit trading of the Stock on the Exchange.

If the American Stock Exchange were to cease to permit trading of the Stock, the Stock might still be traded in the over-the-counter market and price quotations might be available through the National Association of Securities Dealers Automated Quotation System ("NASDAQ") or other sources. The availability of such quotations would,

however, depend upon the number of shares of the Stock held by the public after the Offer, the interest in maintaining a market in the Stock on the part of securities firms, the possible termination of registration under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as described below, and other factors. Depending upon similar factors, shares of the Stock might no longer constitute "margin securities" for the purposes of the margin regulations of the Board of Governors of the Federal Reserve System and, in such event, could not be used as collateral for margin loans.

The Stock is presently registered under the Exchange Act. Registration of the Stock under the Exchange Act may be terminated upon application by the Company to the Securities and Exchange Commission (the "Commission") if there are fewer than 300 record holders of shares thereof. Such deregistration under the Exchange Act would reduce the information required to be transmitted by the Company to its shareholders and to the Commission and would make certain of the provisions of the Exchange Act, such as the short-swing profit recovery provisions of Section 16(b) thereof and the proxy statement requirements of Section 14(a) thereof in connection with shareholders' meetings no longer applicable to the Company. In addition, in the event of such deregistration, the Stock would not be eligible for NASDAQ reporting and shares thereof would not constitute "margin securities" for purposes of the margin regulations of the Board of Governors of the Federal Reserve System. The Company has made no determination with respect to whether it would seek to terminate the Exchange Act registration of the Stock if there remained fewer than 300 holders of record of the Stock following consummation of the Offer.

The purchase of shares of Stock pursuant to the Offer will also reduce the funds available to the Company for general

business purposes and for the payment of dividends and the redemption or repurchase of shares which remain outstanding after such purchase. See Section 11, "Description of the Stock."

9. *Certain Financial Effects of Offer.* The Company's net income per share of Stock will increase on a pro forma basis as a result of the purchase of shares of Stock pursuant to the Offer, but the exact effect on net income per share will depend upon the number of shares purchased and the Company's future income. The following table sets forth the pro forma effect of the purchase of 350,000 shares of Stock pursuant to the Offer on net income for the year ended December 31, 1977, and on net income for the nine months ended September 30, 1978, assuming that (i) such purchase occurred at the beginning of such periods, respectively, (ii) the Company's total expenses and fees incurred in connection with the purchase were $200,000; (iii) the Company utilized $4,150,000 in funds that otherwise would have been invested throughout the year in U.S. Government securities and time deposits; (iv) the Company borrowed $6,550,000 in funds to finance such purchase, at an average interest rate of ½ of 1% in excess of a prime rate averaging 11½% during the relevant periods; and (v) that during the relevant periods there was a constant principal balance of $6,550,000, an unused portion of the available credit of $3,450,000, and a compensating account balance of zero:

	Nine Months Ended September 30, 1978		Year Ended December 31, 1977	
	Actual	Pro Forma	Actual	Pro Forma
Interest Expense, (including Commitment Fee and Balance Deficiency Fee)	$ —	$ 731,813	$ —	$ 975,750
Interest Income from U.S. Government Securities and Time Deposits	328,808	118,887	354,594	134,988
Net Income (after Taxes)*	1,559,839	1,088,972	2,447,946	1,850,268
Outstanding common shares during period	866,264	516,264	866,264	516,264
Earnings Per Share of Stock	$1.80	$2.11	$2.83	$3.58

* Pro forma net income after taxes reflects lower interest income resulting from the net decrease in funds available for short-term investment at an assumed rate of return, and interest paid on amounts borrowed, and assuming a tax rate of 50%.

Set forth below is the Company's capitalization and book value per share of Stock at September 30, 1978, and as adjusted assuming 350,000 shares of Stock had been purchased by the Company on that date at a price of $30.00 per share and held in the corporate treasury, and assuming total expenses and fees of $200,000:

	At September 30, 1978	
	Reported	As Adjusted
Notes Payable	$ —	$ 6,550,000
Shareholder's equity		
Preferred stock, no par value	—	—
Common stock, $2.00 par value	1,737,928	1,737,928
Additional paid-in capital	682,792	682,792
Retained earnings	18,490,690	18,490,690
	$20,911,410	$20,911,410
Less treasury stock at cost	(66,868)	(10,766,868)
Total shareholders' equity	$20,844,542	$10,144,542
Total capitalization	$20,844,542	$16,694,542
Book value per share of common stock*	$24.06	$19.65

* Book value per share of Common Stock is equal to total shareholders' equity divided by the number of shares of Stock outstanding.

Shares of Stock purchased pursuant to the Offer will initially be held as treasury shares. The Company has not decided whether it will subsequently retire all or any of such shares.

The purchase of shares of Stock pursuant to the offer will also reduce the funds available to the Company for the payment of dividends and the redemption or repurchase of shares which remain outstanding after such purchase. See Section 11, "Description of the Stock."

10. *Price Range of the Stock; Dividends.* The Stock is admitted to unlisted trading privileges on the American Stock Exchange. The following table sets forth, for the periods indicated, the high and low sales prices for shares of Stock, as reported by published financial sources, and the amount of dividends paid per share:

	Per Share		Dividends Paid
	High	Low	
1976			
First Quarter	$20¾	$15⅞	$.40
Second Quarter	20⅞	18¾	.40
Third Quarter	22¾	20½	.40
Fourth Quarter	25	20¼	.55
1977			
First Quarter	28¼	24⅜	.40
Second Quarter	25⅜	22½	.40
Third Quarter	25	22¼	.40
Fourth Quarter	24¼	22¼	.65
1978			
First Quarter	24	22½	.40
Second Quarter	23½	22⅜	.40
Third Quarter	26	22¼	.40
Fourth Quarter	25⅞	22½	.65
1979			
First Quarter (through February 2, 1979)	29¼	21⅜	—

Since January 19, 1979, the date of MITE's first announcement of its proposed offer to purchase the stock at a price of $28.00 net per share, the Stock has traded on the American Stock Exchange at prices ranging from $28⅛ to $29¼ per share. On February 2, 1979, the last full day of trading prior to the commencement of the Offer, the closing price per share of the Stock was $28⅜. That price was less than the amount which an independent firm of investment and financial analysts recently determined to be the value of a share of Stock to a person seeking a controlling interst in the Company. See Section 8, "Purposes and Possible Effects of Offer." The closing price of the Stock on the American Stock Exchange on Janury 12, 1979, was $22⅜.

Shareholders may wish to obtain a current market quotation for the Stock from a broker or a newspaper before acting on the offer.

11. *Description of the Stock.* As of February 5, 1979, the authorized capital stock of the Company consisted of 2,000,000 shares of the Stock, of which 866,264 shares were issued and outstanding and 2,700 shares were issued and held in treasury, and 500,000 shares of Preferred Stock, no par value, none of which were either issued or outstanding.

Each share of the Stock entitles the holder thereof to one vote on any matter properly brought before the shareholders for action, and votes may be cumulated in the election of directors. Shareholders to not have, as a matter of right, any pre-emptive rights with respect to the issuance by the Company of shares of any class or of instruments convertible into shares of any class. In the event of a liquidation of the Company, the holders of the Stock would be entitled to receive all distributions available to the Company's shareholders, subject only to the rights of the holders of Preferred Stock then

outstanding (if any) to first receive the entire liquidation value per share of such Preferred Stock.

The Company is not presently a party to any agreement, indenture or other instrument limiting or prohibiting the declaration or payment of dividends of any nature on the Stock; however, under the agreement which the Company will be required to execute in connection with the Loan, the Company expects to enter into certain covenants which under some circumstances could have the effect of limiting or preventing the declaration and payment of dividends by the Company. See Section 3, "Payment of Purchase Price: Source of Funds." The Company's ability to declare or pay dividends is also subject to the provisions with respect thereto imposed on all corporations organized under the Illinois Business Corporation Act by that statute. See Section 10, "Price Range of the Stock; Dividends."

The Illinois Business Corporation Act prohibits a corporation organized thereunder from paying dividends if at the time of declaration or payment or as a result of payment thereof the net assets of the corporation would be reduced below its stated capital. In addition, dividends on common stock may be paid only to the extent of the unrestricted earned surplus of the corporation (excluding amounts representing the cost of treasury shares held by the corporation). The Act also limits redemptions or repurchases of common stock by corporations having no preferred stock outstanding to an amount equal to the net assets of the corporation (excluding amounts representing the cost of treasury shares) less the sum of the corporation's stated capital, paid-in surplus, any surplus arising from unrealized appreciation in value or revaluation of its assets, and any surplus arising from surrender to the corporation of its own shares.

At September 30, 1978, the Company's stated capital amounted to $1,737,928, its net assets were $20,844,542 (excluding $66,868 representing the cost of treasury shares), its paid-in surplus was $682,792, and it had no other surplus other than earned surplus of $18,423,822 (excluding $66,868 representing the cost of treasury shares). Thus the total amounts legally available for the payment of dividends and for redemptions and repurchases of the Stock were $18,423,822.

The result of the purchase of shares of the Stock pursuant to the Offer, assuming that such shares are held in treasury rather than cancelled, will be to reduce the Company's total assets and unrestricted earned surplus (excluding amounts representing the cost of treasury shares) by the aggregate amount of the purchase price paid for all shares of stock purchased. In addition, the Company's total liabilities will be increased by the principal amount borrowed from the Bank under the commitment for the Loan. The reduction of total assets and the increase in total liabilities will reduce net assets. Therefore, two effects of the purchase of shares of the Stock pursuant to the Offer will be to reduce the total amounts legally available for the payment of dividends on shares of the Stock which are not tendered to the Company and remain outstanding after the conclusion of the Offer, and to reduce the total amounts legally available for any subsequent repurchase or redemption of such shares by the Company.

In the event that 350,000 shares are purchased pursuant to the Offer, per share, immediately following such purchase the Company's unrestricted earned surplus would be approximately $7,723,822 and its net assets would be approximately $10,144,342 (in each case excluding approximately $10,766,868 representing the aggregate cost of treasury shares exclusive of expenses and fees, and assuming no changes in the Company's capitalization, assets or liabilities since

September 30, 1978 other than as affected by such purchase). The total amounts legally available for the payment of dividends and for repurchase and redemption of the Stock would thus be approximately $7,723,822. See Section 3, "Payment of Purchase Price: Source of Funds," Section 8, "Purposes and Possible Effects of Offer" and Section 9, "Certain Financial Effects of Offer."

12. *Participation of Officers and Directors.* As of February 5, 1979, the directors and executive officers of the Company and its subsidiaries, as a group, held of record or, to the knowledge of the Company, beneficially, an aggregate of 101,904 shares of Stock (including 21,600 shares held by the Chicago Rivet & Machine Co. Employees' Trust, of which several of the executive officers and directors of the Company are co-trustees), comprising approximately 11.8% of the aggregate number of then outstanding shares of the Stock on that date. In the event that 350,000 shares of Stock are purchased by the Company pursuant to the Offer, the aggregate percentage ownership by the directors and executive officers of the Company of the outstanding shares of Stock will increase to approximately 19.7%, thereby increasing the aggregate voting power which such directors and executive officers could exercise, relative to other shareholders of the Company.

The Company's directors and executive officers have all advised the Company that they have no present intention to tender any shares of Stock to the Company pursuant to this offer. They have also all advised the Company that they have no present intention to purchase any shares of Stock.

During 1977, the Company entered into an agreement with Mr. Ralph W. Jindrich, who is presently the Company's Chairman of the Board, President, and Chief Executive Officer, and who, on February 5, 1979, owned 200 shares of

Stock (not including 21,600 shares owned by Chicago Rivet & Machine Co. Employees' Trust, of which Mr. Jindrich is a participant and co-trustee). The agreement provides for Mr. Jindrich to be employed by the Company as Chief Executive Officer for a term commencing January 1, 1977 and ending December 31, 1982, at an annual compensation of $80,000, plus such additional amounts as the Board of Directors of the Company may authorize. The agreement also provides for certain severance payments and for disability and death benefits. Mr. Jindrich has agreed that, during the period compensation is payable to him pursuant to such agreement, he will not compete directly or indirectly with the Company or its subsidiaries.

Other than Mr. Jindrich, no director is employed by the Company or receives any compensation from it, except that the Company pays annual fees of $6,000 to each director (other than Mr. Jindrich) and additional annual fees of $8,000 to each member of the Executive Committee (other than Mr. Jindrich).

13. *Certain Conditions of Offer.* The Company may without notice amend any of the terms of this Offer or decline to purchase or pay for any shares of the Stock tendered, if prior to the time of payment therefor, there shall have occurred any of the following events which, in the Company's sole judgment, would make it advisable to so amend this Offer or not to proceed with such purchase or payment:

(a) any government agency or other person shall have instituted or threatened any action or proceeding before any court or administrative agency or otherwise shall have taken steps against the Company (i) challenging the acquisition of shares of stock pursuant to the Offer or otherwise in any manner relating to the Offer or (ii)

otherwise materially adversely affecting the Company, or there shall have occurred any material adverse development in any existing action or proceeding; or

(b) any state of war, national emergency, banking moratorium or suspension of payments by banks in the State of Illinois shall have occurred, or any currency or exchange control laws or regulations or general suspension of trading or limitation of prices on the American Stock Exchange shall have been imposed; or

(c) there shall have been any material adverse change in the business, financial condition or operations of the Company; or

(d) an offer shall be made to the Company or its stockholders to acquire the Stock or the business and assets of the Company at a price equal or equivalent to more than $30.00 net per share.

The Company also reserves the right to amend this Offer without notice in the event that MITE's offer is amended.

Any shares of Stock which are tendered to the Company, but by reason of the provisions of this Section 13 are not purchased, shall be returned to the tendering shareholders as soon as practicable.

14. *General Information About the Company.* The Company is subject to the reporting requirements of the Exchange Act and in accordance therewith files reports and other information with the Commission, including consolidated financial statements and descriptions of its business. The Company's annual report on Form 10-K for the year ended December 31, 1977 and its quarterly report on Form 10-Q for the quarter ended September 30, 1978 have previously been filed with the Commission. Information for 1978 concerning the Com-

pany's directors and officers, their remuneration, options granted to them and any material interest of such persons in transactions with the Company is disclosed in its proxy statement filed with the Commission and distributed to the Company stockholders in connection with the Company's annual stockholders' meeting for 1978. Such reports, the proxy statement and other information may be inspected at the Public Reference Room of the Commission, Room 6101, 1100 L. Street, N.W., Washington, D.C. or may be obtained from the Commission at 500 North Capitol Street, N.W., Washington, D.C. 20549, upon payment of the Commission's customary charges.

The Company has previously distributed to its stockholders its Annual Report for the year 1977, which includes audited consolidated financial statements of the Company and its subsidiaries for 1977 and discussions of the Company's outlook for 1978. The Company has also recently distributed to its shareholders its Interim Report for the quarter ended September 30, 1978, which includes unaudited consolidated financial statements for the nine months ended on that date. Except as described below in Section 16 of this Offering Circular, since September 30, 1978 there have been no material changes in the business, assets, operations, or financial condition of the Company or its subsidiaries.

Additional copies of the reports and other documents mentioned above may be obtained by calling the executive offices of the Company at (312) 544-5100.

15. *Federal Income Tax Consequences.* Holders of shares of the Stock who sell shares to the Company for cash pursuant to the Offer will have the following Federal income tax consequences:

1. The sale of shares of the Stock to the Company will be a taxable transaction to the tendering shareholder.

2. A tendering shareholder will recognize capital gain or loss (if the shares of the Stock are a capital asset in the tendering stockholder's hands) measured by the difference between (i) the amount of cash received on such sale and (ii) such shareholder's tax basis for the shares, if any, if the following conditions are satisfied: (a) such shareholder sells all of the shares of the Stock owned by him of record and beneficially; (b) such shareholder sells a sufficient number of shares of Stock so that his percentage share of the capital stock of the Company outstanding after the sale is consummated is less than 80% of his percentage share of the capital stock of the Company outstanding immediately prior to such consummation; or (c) the sale is not essentially equivalent to a dividend. In applying these tests, a shareholder would be deemed to own shares of the Stock attributed to him under the constructive ownership rules in addition to shares actually owned by him.*

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* Under the constructive ownership rules of Section 318 of the Internal Revenue Code of 1954, as amended, a shareholder will be deemed to own shares of the Stock owned by certain corporations, partnerships, estates and trusts in which such shareholder has a beneficial interest, shares as to which such shareholder has an option and, except where the shareholder terminates his entire interest in the Company and complies with certain other requirements set forth in the Internal Revenue Code of 1954, as amended, shares owned by certain members of such shareholder's family. Selling shareholders should consult their own tax advisors for application of the constructive ownership rules to them.

3. If a shareholder is not treated as having sold his shares of the Stock in a transaction which qualifies for capital gain treatment, such shareholder will be deemed to have received a distribution in the amount of the cash received in the transaction. Such distribution would be taxed as a dividend to the extent of the Company's available current and accumulated earnings and profits, regardless of such shareholder's tax basis for the shares. The remaining part of such distribution, if any, would be a return of capital (to the extent of such stockholder's basis in his shares) and any excess would be capital gain, assuming the shares are held as a capital asset.

The recently enacted Revenue Act of 1978 has made significant changes in the taxation of capital gains. The Act generally reduces the amount of taxes payable on long-term capital gains recognized by non-corporate taxpayers after October 31, 1978 (with a possible further reduction, effective with respect to gains recognized in taxable years after 1978, for certain taxpayers, subject to the possible application of an alternative minimum tax) and reduces the alternative tax rate payable by corporate taypayers on long-term capital gains recognized after December 31, 1978.

The Federal income tax discussion set forth above is included for general information only. The tax consequences of a sale of shares of the Stock to the Company pursuant to the Offer may vary, depending upon the particular circumstances of the tendering shareholder.

EACH SHAREHOLDER IS URGED TO CONSULT HIS TAX ADVISOR TO DETERMINE THE PARTICULAR FEDERAL, AS WELL AS STATE AND LOCAL, TAX CONSEQUENCES TO HIM OF A SALE OF HIS SHARES OF THE STOCK.

16. *Recent Developments and Litigation.* On January 19, 1979, MITE and Holdings filed an action in the United States District Court for the Northern District of Illinois in Chicago against the Company and the Secretary of State of Illinois seeking a declaratory judgment that the Illinois Business Takeover Act ("Illinois Act") is unconstitutional and an injunction against any attempt by the Company or the Secretary to invoke or enforce any provisions of the Illinois Act in connection with MITE's proposed offer to acquire the stock of the Company (the "Proposed Offer"). MITE stated in its complaint that it had not complied with the provisions of the Illinois Act or any other state laws regulating tender offers, and indicated that it did not intend to do so.

On January 22, 1979 the Company filed a lawsuit in the Court of Common Pleas of Blair County, Pennsylvania against MITE. Holdings, all of their respective officers and directors, Wertheim & Co., Inc., the dealer-manager of MITE's Proposed Offer, and Wertheim & Co., a partnership which owns the stock of Wertheim & Co., Inc. This lawsuit alleges that the Proposed Offer was being made in violation of the Pennsylvania Takeover Disclosure Law ("Pennsylvania Law") and the Pennsylvania Securities Act of 1972 ("Pennsylvania Securities Act") and seeks to enjoin the defendants from taking any further action to consumate the Proposed Offer or to otherwise acquire any of the Stock of the Company without first complying with the aforesaid Pennsylvania laws. On January 22, 1979, the Court of Common Pleas of Blair County entered a preliminary injunction barring the defendants in that action from taking any steps to consummate MITE's Proposed Offer or otherwise acquiring any shares of the Stock of the Company without first complying with the Pennsylvania Law and Pennsylvania Securities Act.

On January 22, 1979 the Company also filed a complaint with the Pennsylvania Securities Commission ("Commission") against MITE, Holdings and the directors and officers of each of them. The complaint alleges that defendants have violated the Pennsylvania Law and the Pennsylvania Securities Act in connection with the Proposed Offer and requests that the Commission take steps to prevent the defendants from proceeding with the Proposed Offer until they comply with the aforesaid laws.

On January 23, 1979 the Pennsylvania state court litigation was removed from the jurisdiction of the Court of Common Pleas of Blair County to the United States District Court for the Western District of Pennsylvania in Pittsburgh.

On January 24, 1979 MITE and Holdings filed an action against the Company, the members of the Commission and the Acting Attorney General of Pennsylvania in the United States District Court for the Western District of Pennsylvania seeking a declaratory judgment that the Pennsylvania Law is unconstitutional and an injunction against any attempt by the Company and the Commonwealth of Pennsylvania defendants to invoke or enforce that Law against plaintiffs in connection with the Proposed Offer. On February 1, this action was dismissed by the Court against all defendants except the Company as moot in light of the January 31 decision of the Pennsylvania Securities Commission discussed below.

At a hearing before the federal court in Pittsburgh on January 23, a status quo order was entered requiring that none of the parties take any steps with regard to the Proposed Offer until a hearing before the court on January 30, 1979. This status quo order was thereafter extended to February 1, 1979, at which time a further hearing was held before the court. At that hearing, the court denied the Company's re-

quest to extend the status quo order or to otherwise enjoin MITE from proceeding with the Proposed Offer in light of the January 31 decision of the Pennsylvania Securities Commission discussed below.

On January 31, after hearing argument by the parties and reviewing their written submission, the Commission issued an order declaring that it had no jurisdiction to regulate the Proposed Offer because, under its interpretation of the applicable law, the Company does not have its principal place of business in Pennsylvania.

On February 1, 1979, the Company filed an application for rehearing by the Commission of its January 31 order.

On February 1, the Company also filed a petition for review of the Commission's decision with the Commonwealth Court of Pennsylvania in Harrisburg, as well as a request that the Commonwealth Court grant injunctive relief with respect to MITE's Proposed Offer pending the court's review of the Commission's decision. On February 5, the Commonwealth Court held a hearing on the Company's request for injunctive relief and thereafter denied that request.

On February 2, 1979, the federal district court in Chicago entered an order preliminarily enjoining the Illinois Secretary of State from taking any action to invoke or enforce the Illinois Act in connection with the Proposed Offer. While not directly enjoined by order, the Company is also effectively barred by the order from seeking to invoke the Illinois Act with regard to MITE's Proposed Offer. The Court also set the case for a hearing on the merits on February 8, 1979.

17. *Solicitation and Other Fees.* The Company will pay to any broker or dealer who is a member of any national securities exchange or of the National Association of Securities Dealers, Inc. ("NASD"), any foreign broker or dealer who agrees in

connection with the Offer to conform to the Rules of Fair Practice of the NASD, or any commercial bank or trust company ("Soliciting Dealer"), who has solicited the tender of shares of Stock and whose name appears in the appropriate space provided in the Letter of Tender tendering such shares, a solicitation fee of 30 cents for each such share purchased pursuant to the Offer.

Except as set forth above, the Company will not pay any fees or commissions to any broker, dealer or other person for soliciting tenders of shares of Stock pursuant to the Offer.

No broker, dealer, commercial bank or trust company will be the agent of the Company or the Depositary for purposes of the Offer, except that the Offer is being made through the firm of Drexel Burnham Lambert, Incorporated in Louisiana, Indiana, and Ohio as required by the law of those states.

The Depositary will receive reasonable and customary compensation for its services and will also be reimbursed for certain out-of-pocket expenses and indemnified against certain liabilities and expenses in connection with the Offer.

Hill and Knowlton, Inc. has been retained by the Purchaser as Information Agent in connection with the Offer. Such firm will receive customary compensation from the Company for services relating to the Offer and will be reimbursed for certain out-of-pocket expenses in connection therewith and indemnified against certain liabilities and expenses in connection with the Offer.

18. *Miscellaneous.* The Offer is not being made to, nor will the Company accept tenders from, holders of shares of Stock in any state of the United States or in any foreign jurisdiction in which the Offer or the acceptance thereof would not be in compliance with the securities or blue sky laws of such state or foreign jurisdiction; however, the Company may, in its

discretion, take such action as it may deem necessary to enable it to make the Offer and accept tenders of shares of the Stock from shareholders in any such jurisdiction. In those jurisdictions whose laws require the Offer to be made by a licensed broker or dealer, the Offer is made on behalf of the Company by one or more registered brokers or dealers which are licensed under the laws of such jurisdiction.

CHICAGO RIVET & MACHINE CO.

Facsimile copies of the Letter of Tender will be accepted. The Letter of Tender and certificates for your shares of Stock should be sent or delivered by you, your broker, dealer, bank or trust company to the Depositary at one of its addresses set forth below:

The Depositary:

THE FIRST NATIONAL BANK OF CHICAGO

By Mail:	*By Hand:*
The First National Bank of Chicago	The First National Bank of Chicago
Corporate Trust Division	Corporate Trust Division
P.O. Box A	40 West Adams Street, 8th Floor
Chicago, Illinois 60690	Chicago, Illinois 60690

Shareholders should contact their broker, dealer, commercial bank or trust company for assistance concerning the Offer. Requests for additional copies of these materials and for assistance may also be directed to the Information Agent at the address and telephone number listed below:

The Information Agent:

HILL AND KNOWLTON, INC.
633 Third Avenue
31st Floor
New York, N.Y. 10017
(212) 697-9684
(call collect)

Additional copies of this Offering Circular, the Letter of Tender, and related documents may also be obtained from Drexel Burnham Lambert Incorporated, at its offices at 60 Broad Street, New York, N.Y. 10004. Prospectus Department, 14th Floor, (212) 480-6000, or at its offices at 230 West Monroe Street, Chicago, Illinois 60606, (312) 977-3000.

CHICAGO RIVET & MACHINE CO.

February 5, 1979

To the Holders of Common Stock of
Chicago Rivet & Machine Co.:

Dear Stockholder:

There are enclosed for your consideration materials relating to an Offer by Chicago Rivet & Machine Co. (the "Company") to acquire 350,000 shares of its Common Stock, for cash at $30.00 net per share. The terms and conditions upon which the Offer is made are set forth in the accompanying Offering Circular and related Letter of Tender, which contain the complete terms of the Company's Offer and which you should read carefully.

MITE Corporation ("MITE"), through its wholly-owned subsidiary, MITE Holdings, Inc., has commenced a tender offer for all or any shares of Common Stock of the Company for cash at $28.00 net per share.

The Board of Directors of the Company recommends against any shareholder tendering his shares pursuant to either MITE's offer or pursuant to the enclosed Offer. You should be aware that holders of 285,000 shares of the Company's stock, including all directors and officers of the Company, have indicated that they will not tender any shares pursuant to either offer.

If you nevertheless wish to tender all or some of your Common Stock to the Company, please follow the instructions in the enclosed Letter of Tender and in the enclosed Offering Circular under the caption, "Tender of Shares."

If more than 350,000 shares of the Company's stock are tendered to the Company pursuant to the enclosed Offer, the Company will not be obligated to purchase any of the excess. If the Company receives tenders of more than 350,000 shares during the initial offering period and purchases less than all of such shares, it will accept shares (but not less than 350,000 shares) pro rata according to the number of shares tendered by each shareholder (except that the Company will purchase all shares of any person who on February 5, 1979 held less than 100 shares of the Company's stock and who tenders all of his stock to the Company).

Should you wish to avoid retaining any of the Company's stock if the Company elects to purchase less than all shares tendered, you may authorize the Depositary as your agent to tender your excess shares, if any, to MITE, for purchase by MITE, subject to all of the terms and conditions of MITE's offer. If you elect this course, you must place an "X" in the box captioned "Tender Over of Excess Shares to MITE" on the enclosed Letter of Tender. In addition, you must of course also follow all of the other instructions contained in the enclosed Letter of Tender and Offering Circular with respect to your tender of shares to the Company. The Depositary will

then tender to MITE the excess shares, if any, which would otherwise have been returned to you by the Company, unless MITE's offer shall previously have been withdrawn. In the event of such prior withdrawal of MITE's offer, the excess shares will be returned to you as soon as practicable.

If you have any questions or require assistance, you may contact the Company's Information Agent, Hill and Knowlton, Inc. collect at (212) 697-9684.

If your shares of Common Stock are held by your bank or broker and you desire to accept the Offer, you should instruct your bank or broker to accept the Offer on your behalf.

Please note that the Offer is scheduled to expire at 4:00 p.m., Chicago Time on February 12, 1979, unless extended. Accordingly, if you decide to accept the Offer, you are encouraged to act promptly.

Very truly yours,

CHICAGO RIVET & MACHINE CO.

February 5, 1979

To Our Clients

RE: OFFER BY CHICAGO RIVET & MACHINE CO. TO PURCHASE 350,000 SHARES OF ITS COMMON STOCK FOR CASH AT $30.00 NET PER SHARE

Enclosed for your consideration is an Offering Circular dated February 5, 1979 of Chicago Rivet & Machine Co. (the "Company"), pursuant to which the Company is offering to purchase 350,000 shares of its Common Stock duly tendered and accepted by the Company, all on the terms and conditions

set forth in the Offering Circular and the related Letter of Tender.

You are the beneficial owner of Common Stock which we hold of record in our name. A tender of such Common Stock can be made only by us as the holder of record and pursuant to your instructions below. If you authorize tender of your Common Stock, all such Common Stock will be tendered unless a lesser number is specified below. You also have an option to direct the Depositary to tender over to MITE Holdings, Inc., pursuant to its current offer to purchase the Company's Common Stock, any of your tendered shares which are not purchased by the Company pursuant to its Offer.

The Letter of Tender is furnished to you for your information only and cannot be used by you to tender your Common Stock. Please note that tenders must be received by the Depositary prior to 4:00 p.m. Chicago Time, on February 12, 1979, unless the Offer is extended by the Company. Accordingly, your instructions to us should be forwarded to us as to permit us to tender shares on your behalf prior to the expiration of the Offer.

INSTRUCTIONS

Please tender to Chicago Rivet & Machine Co. on (our) (my) behalf the shares of Common Stock, $2.00 par value, of Chicago Rivet & Machine Co. indicated below which are owned by (us) (me) and registered in your name, pursuant to the terms and conditions contained in the Offering Circular dated February 5, 1979 and the related Letter of Tender, the receipt of which is hereby acknowledged.

_____

_____

(Signature(s))

_____

_____

Please print name(s) here

Number of shares to be tendered*:

_____

* Unless otherwise indicated herein, it will be assumed that all of your shares are to be tendered.

☐ Check this box if you wish the Depositary to tender over to MITE Holdings, Inc. any of your tendered shares which the Company does not purchase, as set forth in the Company's Offer to Purchase under the heading, "Tendering Over of Excess Shares".

DREXEL BURNHAM LAMBERT INCORPORATED
60 Broad Street
New York, New York 10004

February 5, 1979

To Stockholders of Chicago Rivet
& Machine Co. in Louisiana, Indiana, and Ohio:

On behalf of Chicago Rivet & Machine Co. (the "Company") and as required by the securities laws of your state, we enclose documents relating to an Offer by the Company to purchase shares of its outstanding Common Stock. This letter is not a solicitation for you to accept the Offer, and we make

no recommendation as to what action, if any, you should take with respect to the Offer.

Very truly yours,

DREXEL BURNHAM LAMBERT INCORPORATED

Enclosures

February 5, 1979

To Securities Brokers and Dealers, Banks
and Trust Companies:

RE: OFFER BY CHICAGO RIVET & MACHINE CO. TO PURCHASE 350,000 SHARES OF ITS COMMON STOCK FOR CASH AT $30.00 NET PER SHARE

We are asking you, as the record holder of shares of Common Stock, $2.00 par value (the "Common Stock"), of Chicago Rivet & Machine Co. (the "Company"), to bring to the attention of your clients for whom you hold Common Stock the offer being made by the Company to purchase 350,000 shares of Common Stock for cash at $30.00 net per share.

For your information, we are enclosing herewith the following material:

1. Copy of Offering Circular dated February 5, 1979.

2. Letter of Tender for your use and for the information of your clients.

3. A printed form of letter which may be sent to your customers for whose account you hold Common Stock in your name, with space provided for obtaining such customers' instructions with regard to the Offer to Purchase.

4. Envelopes addressed to The First National Bank of Chicago, the Depositary, to be used by you to return Letters of Tender and certificates for shares of Common Stock.

A solicitation fee of 30 cents for each share of Common Stock purchased pursuant to the Offer to Purchase will be paid by the Company to any broker or dealer who is a member of any national securities exchange or of the National Association of Securities Dealers, Inc. ("NASD"), any foreign broker or dealer who agrees in connection with the Offer to conform to the Rules of Fair Practice of the NASD, or any commercial bank or trust company ("Soliciting Dealer"), who has solicited the tender of Shares and whose name appears in the appropriate space provided in the Letter of Tender tendering such shares.

The Company will upon written request reimburse you for customary mailing and handling expenses incurred by you in forwarding the enclosed material to your clients. The Company will pay any transfer taxes payable on the transfer of shares to it, except as otherwise provided in Instruction 4 to the Letter of Tender.

Acceptance of compensation by you for soliciting tenders of shares of Common Stock will constitute your representation and agreement that (i) you have complied with the requirements of, and are entitled to receive compensation for solicitation in accordance with, the provisions of the Offer to Purchase; (ii) in connection with such solicitation, you have complied with and will comply with the applicable requirements of the Securities Exchange Act of 1934, as amended, any applicable laws of any jurisdiction of the United States, and the applicable rules and regulations thereunder; and (iii) in soliciting tenders you have used no soliciting materials other than those furnished to you by or on behalf of the Company.

We urge you to contact your customers promptly. Please note that, unless extended, the Offer to Purchase terminates at 4:00 p.m., Chicago Time, on February 12, 1979.

Questions on requests for additional copies of the enclosed materials should be directed to the Company's Information Agent, Hill and Knowlton, Inc. at the addresses and telephone numbers shown in the enclosed Offering Circular. Additional copies of the enclosed materials may also be obtained from Drexel Burnham Lambert Incorporated, at any of their offices listed in the Offering Circular.

NOTHING HEREIN OR IN THE DOCUMENTS HEREWITH ENCLOSED SHALL CONSTITUTE YOU THE AGENT FOR THE COMPANY OR THE DEPOSITARY OR AUTHORIZE YOU TO MAKE ANY STATEMENTS ON THEIR BEHALF WITH RESPECT TO THE OFFER TO PURCHASE OTHER THAN THE STATEMENTS SPECIFICALLY SET FORTH HEREIN.

LETTER OF TENDER

TO TENDER COMMON STOCK OF CHICAGO RIVET & MACHINE CO.
IN ACCEPTANCE OF OFFER DATED FEBRUARY 5, 1979
OF CHICAGO RIVET & MACHINE CO.

Important: This Offer expires at 4:00 p.m., Chicago, Illinois time,
on February 12, 1979, unless extended.

Mailing Address	Hand Deliveries
To Depositary:	
The First National Bank of Chicago	The First National Bank of Chicago
Corporate Trust Division	Corporate Trust Division
P.O. Box A	40 West Adams—8th Floor
Chicago, Illinois 60690	Chicago, Illinois

The undersigned hereby tenders to Chicago Rivet & Machine Co., an Illinois corporation (the "Company"), the shares of the Common Stock, par value $2.00 per share (the "Shares"), of the Company described below in accordance with the terms of the Company's Offer to Purchase dated February 5, 1979 (the "Offer"), receipt of which is hereby acknowledged, and, in consideration of the payment of the purchase price, the undersigned hereby sells, assigns and transfers such Shares to the Company. If the box below relating to the tender over of Excess Shares is marked, the undersigned hereby directs the Depositary, on behalf of the undersigned, to tender over all of the undersigned's tendered Shares which the Company does not purchase to MITE Holdings, Inc., a wholly-owned subsidiary of MITE Corporation (both such corporations

being collectively referred to hereinafter as "MITE"), pursuant to MITE's current Offer to Purchase Common Stock of the Company.

The undersigned's name and address are printed below as they appear in the undersigned's certificate(s) representing Shares of the Company. The certificate number(s) and the number of Shares of the Company represented by such certificate(s) and the number of Shares of the Company that the undersigned wishes to tender are indicated in the appropriate boxes.

Certificates Number	Number of Shares Represented by Certificate	Number of Shares Tendered from Certificate*

* If you desire to tender fewer than all of the Shares which are evidenced by any certificate delivered pursuant to this Letter of Tender, please indicate in this column the number of Shares being tendered. Otherwise, it will be assumed that all the Shares evidenced by delivered certificates are tendered. If the space provided in the above box is inadequate, please complete the requested information on a separate schedule and attach the schedule hereto.

Guarantee of Delivery

Available ONLY if this Letter of Tender is received prior to 4:00 p.m., Chicago, Illinois time, February 12, 1979.

The undersigned,

☐ **a member of a national securities exchange or the National Association of Securities Dealers, Inc.,**

☐ **a bank in the United States,**

☐ **a trust company in the United States,**

guarantees to deliver to the Depositary, in proper form for transfer, certificates for the Shares tendered by this Letter of Tender not later than the close of business on the eighth business day after the date hereof.

Dated: .....

Firm Name .....

Address .....

.....

Authorized by .....

Area Code & Telephone Number .....

The undersigned represents that he has full authority to sell and to transfer the tendered Shares, and that the Company will acquire good title thereto, free and clear of all pledges, security interests, liens, claims and encumbrances. The undersigned will upon request, execute any additional documents necessary to complete the sale and transfer of the tendered Shares. All authority conferred or agreed to be conferred in this Letter of Tender shall be binding upon the successors, assigns, heirs, executors, administrators and legal representatives of the undersigned and shall not be affected by, and shall survive, the death or incapacity of the undersigned.

The undersigned hereby irrevocably constitutes the Depositary attorney, with full power of substitution, to deliver the tendered Shares, together with all accompanying evidences of authority, to or upon the order of the Company against receipt of the purchase price and to cause the tendered Shares to be transferred on the books of the Company.

Please deliver the check in payment for Shares purchased or the certificates for Shares not purchased to the undersigned at the address specified above unless otherwise indicated under Special Payment Instructions or Special Delivery Instructions.

SPECIAL PAYMENT INSTRUCTIONS

To be completed ONLY if proceeds are to be paid to other than the registered holder.

Issue and mail check to:

Name .....
(Please print)

Address .....

.....
(Zip Code)

SPECIAL DELIVERY INSTRUCTIONS

To be completed ONLY if certificates and/or check are to be returned to other than the registered holder.

Mail certificates and/or check to:

Name .....
(Please print)

Address .....

.....
(Zip Code)

Tax Identification or Social Security Number of Recipient .....

SIGN HERE

(Signature(s) of Stockholder(s)

Dated: .....

(Must be signed by registered holder(s) as name(s) appear on stock certificate(s) or by person(s) authorized to become registered holder(s) by certificates and documents transmitted. If signing is by attorney, administrator, stockholder, trustee or guardian, please set forth full title.)

Name(s) .....
(Please print)

Address .....

.....

Area Code and Telephone Number .....

Tax Identification or Social Security Number .....

Signature(s) Guaranteed by .....

.....

Note: See Instruction 4 regarding payment of transfer taxes.

SOLICITED TENDERS

The undersigned represents that the broker, dealer, commercial bank or trust company which solicited and obtained this tender is:

Name of Firm .....

(Please Print)

Name of Individual .....

Address .....

(Zip Code)

Acceptance of compensation by the above will constitute a representation and agreement that (i) it has complied with the requirements of, and is entitled to receive compensation for solicitation in accordance with, the provisions of the Offer; (ii) In connection with such solicitation, it has complied with the applicable requirements of the Securities Exchange Act of 1934, as amended, any applicable laws of any jurisdiction of the United States, and the applicable rules and regulations promulgated thereunder; and (iii) in soliciting tenders of Shares it has used no soliciting materials other than those furnished by or on behalf of Chicago Rivet & Machine Co.

CONDITIONAL TENDER

A tendering shareholder may condition his tender of Shares upon the acceptance by the Company of a specified minimum number of shares tendered hereby, all as described in the Offer, particularly Section 5 thereof. Unless such specified minimum is purchased by the Company pursuant to the terms of the Offer, none of the Shares tendered hereby will be purchased. Unless this box has been completed and a minimum specified, the tender will be deemed unconditional.

Minimum number of Shares which must be purchased if any are purchased:

..... Shares

TENDER OVER OF EXCESS SHARES TO MITE

A tendering shareholder may direct, by placing an "X" in the box below, that any Shares tendered to the Company hereby which are not purchased by the Company (the "Excess Shares") shall be tendered over by the Depositary, on behalf of the tendering shareholder, to MITE, pursuant to MITE's current Offer to Purchase Common Stock of the Company. The Depositary shall issue in its own name one or more certificates representing all of the Excess Shares of tendering shareholders which are to be tendered over, shall tender over such certificate or certificates to MITE, and upon purchase of such Excess Shares by MITE shall forward the proceeds thereof to the respective tendering shareholders. By placing an "X" in the box below, the tendering shareholder acknowledges that he has received the Offer to Purchase published and distributed by MITE. Neither the Company nor the Depositary (1) shall have any obligation with respect to the tender over to MITE beyond the making of the

tender and the forwarding of all proceeds received therefrom to the respective tendering shareholders, nor (2) guarantee the acceptance of such Excess Shares by MITE nor the payment for such Excess Shares by MITE. Unless the box below has been checked, the Depositary will not tender over any of the tendering shareholder's Excess Shares to MITE. In the event of prior withdrawal by MITE of its Offer to Purchase, the Excess Shares will be returned to the tendering shareholder as soon as practicable.

☐ Please tender over my Excess Shares to MITE, as described above. I have read the Offer to Purchase published and distributed by MITE.

PLEASE FOLLOW THE INSTRUCTIONS ON THE REVERSE
(DO NOT WRITE IN SPACES BELOW)

Date Received			Accepted By		Checked By	
.....			.....		.....	
Shares Surrendered	Shares Tendered	Shares Accepted	Check Nos.	Amount of Check	Shares Returned	Certificate No.

Delivery Prepared By ..... Checked By ..... Date .....

INSTRUCTIONS FOR TENDER OF COMMON STOCK OF CHICAGO RIVET & MACHINE CO.

1. Tenders must be made on the Letter of Tender, or a facsimile thereof, signed by the registered holder(s) or the person(s) authorized to become a registered holder of the tendered Shares and must be received by 4:00 p.m., Chicago, Illinois time, on February 12, 1979, unless the offer is extended. Signatures on the Letter of Tender must be guaranteed by a bank or trust company in the United States or by a member firm of any registered national securities exchange or the National Association of Securities Dealers, Inc. unless the Shares being tendered thereby are tendered for the account of such bank, trust company or member firm. All stock certificates tendered by other than the registered holder must be duly endorsed in blank by the registered owner or accompanied by duly executed stock powers signed by the registered owner, with, in either case, signatures guaranteed thereon and on the Letter of Tender as provided above. If the Letter of Tender is executed by an officer on behalf of a corporation or by an executor, administrator, trustee, guardian, attorney, agent or other person acting in a fiduciary or representative capacity, proper documentary evidence must be furnished of the authority of the person executing the same. If the tendered certificates are owned of record by two or more joint owners, all such owners must sign the Letter of Tender. Questions regarding such evidence of authority may be referred to the Depositary, which is The First National Bank of Chicago, Chicago, Illinois.

2. Prior to 4:00 p.m. Chicago, Illinois time, on February 12, 1979 (such date and time being hereinafter referred to as the "Initial Expiration Date" of the Offer), or, in the event the Offer is extended, prior to the expiration date of any such extension period, tenders may be made without the concur-

rent deposit of stock certificates if such tenders are made by or through members of a national securities exchange or the National Association of Securities Dealers, Inc. or by banks or trust companies in the United States. (The later of the Initial Expiration Date and the latest time and date to which the Offer may be extended is hereinafter sometimes referred to as the "Expiration Date".) In such cases the Letter of Tender must be received prior to the Expiration Date by the Depositary, and the guarantee of delivery contained in the Letter of Tender must be executed by such member, bank or trust company. In addition, the certificates tendered thereby must be received by the Depositary within 8 American Stock Exchange trading days after the date of the Letter of Tender. Payment for Shares so tendered and purchased will be made only against timely deposit of the stock certificates and any other required documents with the Depositary. In all other cases the Letter of Tender must be accompanied by the stock certificates.

3. If a shareholder desires to tender and time will not permit his Letter of Tender to reach the Depositary before the Expiration Date, his tender may be effected if (a) his stock certificates (if available), a properly executed Letter of Tender and any other required documents have been deposited with a member of a national securities exchange or the National Association of Securities Dealers, Inc. or with a bank or trust company in the United States and (b) the Depositary has received prior to the Expiration Date a telegram or letter from such member, bank or trust company setting forth the name of the shareholder, the number of shares tendered, stating whether or not the tender is conditioned on a minimum number of shares being purchased from the shareholder (and if so, setting forth such minimum), stating whether or not the shareholder directs the Depositary to tender over shares which the Company does not purchase to MITE and stating that the

tender is being made thereby and guaranteeing that within 8 American Stock Exchange trading days thereafter the certificates representing the Shares being tendered, together with a properly completed and duly executed Letter of Tender and any other required documents, will be received by the Depositary. Payment for shares so tendered and purchased will be made only against timely deposit of the stock certificates, a properly completed and executed Letter of Tender and any other required documents with the Depositary.

4. No stock transfer tax stamps or funds to cover such stamps need accompany this instrument. The Company will pay any stock transfer taxes applicable to the transfer and sale to it, if payment of the purchase price is to be made to an assignee of the registered holder or if deposited stock certificates are not registered in the name of the person signing the Letter of Tender, the amount of any stock transfer taxes on account of the transfer to such assignee or such person will be deducted from the purchase price, if evidence of the payment of such tax is not submitted.

5. The method of delivery of this Letter of Tender, the stock certificates and any documents is at the option and risk of the holder but, except as otherwise provided in Instruction 3 above, the delivery will be deemed effective only when actually received by the Depositary. If such delivery is by mail, it is suggested that insured registered mail be used.

6. Except as provided for in this Letter of Tender, no alternative, conditional, irregular or contingent tenders will be accepted.

7. If a shareholder's Shares are registered differently on several certificates, it will be necessary for him to complete, sign and submit as many separate Letters of Tender as there are different registrations of his Shares.

8. The Company reserves the absolute right to waive any of the specified conditions in the Offer in the case of any Shares tendered or purported to be tendered.

9. Additional copies of this Letter of Tender may be obtained from the Information Agent or from Drexal Burnham Lambert Incorporated at the addresses set forth in the Offer.

APPENDIX F

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC.,
Plaintiffs,

v. No. 79 C 200

ALAN J. DIXON and
CHICAGO RIVET & MACHINE CO.,
Defendants.

VERIFIED ANSWER OF DEFENDANT CHICAGO RIVET & MACHINE CO. TO SECOND AMENDED COMPLAINT

Defendant, Chicago Rivet & Machine Co. ("Rivet"), by its attorneys, answers the Second Amended Complaint ("Complaint") of Plaintiffs Mite Corporation ("Mite") and Mite Holdings, Inc. ("Mite Holdings") as follows:

1. This is an action among other matters for a declaratory judgment, pursuant to 28 U.S.C. §2201, declaring each of the Illinois Business Take-Over Act, P.A. 80-1421 (as amended, effective September 8, 1978) (the "Illinois Act") and the Pennsylvania Takeover Disclosure Law (effective March 3, 1976) (the "Pennsylvania Law") to be null and void on its face and as applied to the plaintiffs, in connection with a proposed cash tender offer by MITE and MITE Holdings for any and all of the

outstanding shares of common stock of CHICAGO RIVET & MACHINE CO. ("Chicago Rivet") because the Illinois Act and the Pennsylvania Law conflict with and thus are preempted by the Securities Exchange Act of 1934, 15 U.S.C. § §78a *et seq.* (the "Exchange Act"); because the Illinois Act and the Pennsylvania Law violate the Supremacy and Commerce Clauses of the Constitution of the United States; and because the Illinois Act and the Pennsylvania Law deny rights protected by and enforceable under 42 U.S.C. §1983.

ANSWER:

1. Rivet denies each and every allegation in Paragraph 1 of the Complaint, except admits that Plaintiffs attempt to invoke the jurisdiction of this Court pursuant to 28 U.S.C. §2201, and further states that the Illinois Business Take-Over Act ("Illinois Act") and the Pennsylvania Takeover Disclosure Law ("Pennsylvania Law") are constitutional both on their face and as applied to Plaintiffs.

2. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, plaintiffs request a temporary restraining order, preliminary injunction and permanent injunction enjoining and restraining the defendant Dixon from invoking or enforcing the Illinois Act and enjoining and restraining the defendant Chicago Rivet from invoking or enforcing the Illinois Act or the Pennsylvania Law against the plaintiffs in connection with the aforementioned tender offer. Plaintiffs also seek to restrain defendant Chicago Rivet and the director-officer defendants from completing an offer by Chicago Rivet to

purchase at least 350,000 shares of its own common stock.

ANSWER:

2. Rivet denies each and every allegation contained in Paragraph 2 of the Complaint except admits that Plaintiffs request certain injunctive relief pursuant to Rule 65.

3. Plaintiff MITE is a corporation organized and existing under the laws of the State of Delaware with its principal executive offices at 446 Blake Street, New Haven, Connecticut.

ANSWER:

3. Rivet lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Complaint.

4. Plaintiff MITE Holdings is a corporation organized and existing under the laws of the State of Delaware, with its principal executive offices at 446 Blake Street, New Haven, Connecticut.

ANSWER:

4. Rivet lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Complaint.

5. Defendant Chicago Rivet is a corporation organized and existing under the laws of the State of Illinois with its principal executive offices at 950 S. Twenty-Fifth Avenue, Bellwood, Illinois.

ANSWER:

5. Rivet admits the allegations contained in Paragraph 5 of the Complaint and further states that Rivet's principal place of business is in Blair County, Pennsylvania.

6. Defendant Alan J. Dixon is the Secretary of State of Illinois. He is charged with the administration and enforcement of the Illinois Act. He maintains an office at 188 West Randolph Street, Chicago, Illinois.

ANSWER:

6. Rivet admits the allegations contained in Paragraph 6 of the Complaint.

7. Defendants Walter W. Morrissey, John A. Morrissey, John H. Tonn, Thomas P. Ward, Paul M. Wade, Ralph W. Jindrich, and Beranard J. Hank, Jr. are and at all pertinent times have been members of the Board of Directors of Chicago Rivet. The remaining defendant officers are: Roger B. Branstetter, Vice President — Tyrone; Robert K. Brown, Vice President — Employee Relations; Clarence E. Damhorst, Vice President — Administration; Donald A. McCormick, Vice President — Manufacturing; Will E. Shineflug, Vice President — Marketing; Richard A. Keeler, Treasurer; Margaret M. O'Connell, Secretary; Timothy A. Olson, Controller; and Oliver T. Mann, Senior Vice President. The individual defendants who are directors or officers of Chicago Rivet are hereinafter collectively sometimes referred to as the director-officer defendants. The director-officer defendants,

except for Roger Branstetter, who is a resident of Pennsylvania, are residents of Illinois.

ANSWER:

7. Rivet admits the allegations contained in Paragraph 6 of the Complaint that Walter W. Morrissey, John A. Morrissey, John H. Tonn, Thomas P. Ward, Paul M. Wade, Ralph W. Jindrich, and Bernard J. Hank, Jr. are members of the Board of Directors of Rivet; that the following individuals are officers of Rivet: Roger B. Branstetter, Vice President-Tyrone; Robert K. Brown, Vice President-Employee Relations; Clarence E. Damhorst, Vice President-Administration; Donald A. McCormick, Vice President-Manufacturing; Richard A. Keeler, Treasurer; Margaret M. O'Connell, Secretary; and Oliver T. Mann, Senior Vice President, and denies the remaining allegations contained in Paragraph 7 of the Complaint.

8. Defendant Walter W. Morrissey owns 18,558 shares of Chicago Rivet common stock which include 5,824 shares owned individually, 1,002 shares held beneficially, 2,152 shares held as co-trustee of a trust in which he has a beneficial interest, and 9,580 shares held in other trusts of which he is a co-trustee.

ANSWER:

8. Rivet denies each and every allegation contained in Paragraph 8 of the Complaint except admits that Walter W. Morrissey beneficially holds 1,002 shares of Rivet common stock.

9. Defendant John A. Morrissey owns 13,686 shares of Chicago Rivet common stock which include 5,079 shares owned individually, 3,592 shares owned beneficially, 3 shares held as custodian for his

son, and 5,012 shares held in six trusts of which he is a co-trustee.

ANSWER:

9. Rivet denies each and every allegation contained in Paragraph 9 of the Complaint except admits that 3 shares of common stock of Rivet are held as custodian for the son of John A. Morrissey.

10. Defendant John H. Tonn owns 26,815 shares of Chicago Rivet common stock.

ANSWER:

10. Rivet admits the allegations contained in Paragraph 10 of the Complaint.

11. Defendant Thomas P. Ward owns 5,245 shares of Chicago Rivet common stock which include 3,795 shares owned by his wife, 1,350 shares owned jointly with his wife, and 100 shares held as custodian for his daughter.

ANSWER:

11. Rivet admits the allegations contained in Paragraph 11 of the Complaint.

12. Defendant Paul M. Wade owns 3,089 shares of Chicago Rivet common stock which includes 1,400 shares owned by him as trustee under self-declaration of trust in which he is the primary beneficiary, 1,909 shares held in trusts of which he is a co-trustee, and 500 shares owned by a corporation in which he has a controlling interest. Paul M. Wade is a co-trustee of the Chicago Rivet & Machine Co. Employees' Trust which holds 21,600 shares of Chicago Rivet common stock.

ANSWER:

12. Rivet denies each and every allegation contained in Paragraph 12 of the Complaint except Rivet admits that Paul M. Wade owns 1,400 shares of common stock of Rivet as trustee under self-declaration of trust in which he is the primary beneficiary and that he is a co-trustee of the Rivet Employee's Trust which holds 21,600 shares of Rivet common stock.

13. Defendant Ralph W. Jindrich, the President, owns 200 shares of Chicago Rivet common stock. Ralph W. Jindrich is a co-trustee of the Chicago Rivet & Machine Co. Employees' Trust which holds 21,600 shares of Chicago Rivet common stock.

ANSWER:

13. Rivet admits the allegations contained in Paragraph 13 of the Complaint.

14. Defendant Bernard J. Hank, Jr. owns 400 shares of Chicago Rivet common stock which include 200 shares owned by his wife.

ANSWER:

14. Rivet admits the allegations contained in Paragraph 14 of the Complaint.

15. The individual share ownership of the defendant officers who are not directors is presently unknown to plaintiffs.

ANSWER:

15. Rivet lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint.

16. This Court has subject matter jurisdiction of this action pursuant to Section 27 of the Exchange Act, 15 U.S.C. §78aa, pursuant to 28 U.S.C. §§1331, 1332 and 1337, as to Counts I, II and IV additionally pursuant to 42 U.S.C. §1983 as to Counts I and II and as to Count III pursuant 28 U.S.C. §1332 and the principles of pendent jurisdiction. The amount in controversy, exclusive of interest and costs, exceeds the sum of $10,000.

ANSWER:

16. Rivet denies each and every allegation contained in Paragraph 16 of the Complaint.

17. Venue in this district is proper pursuant to Section 27 of the Exchange Act, 15 U.S.C. §78aa, and 28 U.S.C. §1391(b), because the defendants reside or do business in this district and the acts and transactions giving rise to this claim occur here.

ANSWER:

17. Rivet denies each and every allegation contained in Paragraph 8 of the Complaint except admits that Rivet does business in this judicial district.

18. The principal business of MITE is the development, manufacture and sale of (i) industrial components, consisting of specialty fasteners and hardware products; and (ii) special products, including precision spindles, time stamps and recorders, perforators, hydraulic control devices and attachments for home sewing machines. These products are manufactured in Connecticut and Indiana by MITE, which has approximately 1,000 employees. MITE's products are sold throughout

the United States and abroad. MITE's sales for the fiscal year ended 1978 amounted to $48,202,940 resulting in net income of $4,107,502.

ANSWER:

18. Rivet lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint.

19. MITE's Common Stock, its Convertible Preferred Stock, Series A, and its 10% Subordinated Sinking Fund Debentures due 1997 are registered with the Securities and Exchange Commission ("SEC") pursuant to Section 12(b) of the Exchange Act. The Common Stock and the Subordinated Debentures are listed and traded on the American Stock Exchange. The Convertible Preferred Stock is traded over-the-counter. MITE is currently subject to the informational requirements of the Exchange Act and files reports and other information with the SEC relating to its business and financial statements.

ANSWER:

19. Rivet lacks knowledge or information sufficient to form a belief as to the knowledge of the allegations contained in Paragraph 19 of the Complaint.

20. MITE has approximately 2,242,787 shares of its Common Stock outstanding and approximately 5,960 recordholders of its Common Stock located in 47 states and the District of Columbia.

ANSWER:

20. Rivet lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint.

21. MITE Holdings is a wholly-owned subsidiary of MITE whose only present business is to make a tender offer for, and hold shares of, Chicago Rivet.

ANSWER:

21. Rivet lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint.

22. The principal business of Chicago Rivet consists of (i) the development, manufacture and sale of rivets, automatic rivet-setting machines, and the parts and tooling for such machines and the leasing of such machines to customers; and (ii) the development, manufacture and sale of steel wire. These products are manufactured in Illinois, Pennsylvania and Iowa by Chicago Rivet, which has approximately 1,000 employees. Chicago Rivet's products are sold or leased throughout the United States. In 1977 Chicago Rivet's total revenue amounted to $36,486,255, resulting in net earnings of $2,447,946.

ANSWER:

22. Rivet denies each and every allegation contained in Paragraph 22 of the Complaint except admits that the principal business of Rivet consists of (i) the development, manufacture and sale of rivets, automatic rivet-setting machines, and the parts and tooling for such machines and the leasing of such machines to customers; and (ii) the development, manufacture and sale of steel wire and admits that Rivet together with certain subsidiaries manufac-

tures such products in Illinois, Pennsylvania and Iowa; that Rivet together with certain of its subsidiaries has approximately 1,000 employees, admits that Rivet's products are sold or leased throughout the United States; admits that in 1977 the total revenue of Rivet and its subsidiaries amount to $36,486,255 and net earnings of Rivet and its subsidiaries amount to $2,447,946.

23. Chicago Rivet's Common Stock is registered with the SEC pursuant to Section 12(g) of the Exchange Act and is traded on the American Stock Exchange. Chicago Rivet is currently subject to the informational requirements of the Exchange Act and files reports and other information with the SEC relating to its business, financial statements and other matters. As of September 30, 1978, Chicago Rivet had 866,264 shares of Common Stock outstanding. As of December 31, 1977, Chicago Rivet had approximately 2,259 recordholders of its Common Stock.

ANSWER:

23. Rivet admits the allegations contained in Paragraph 23 of the Complaint.

24. MITE has filed a Schedule 14D-1 with the SEC pursuant to Section 14(d)(1) of the Exchange Act and Rule 14d-1 promulgated thereunder with respect to a proposed cash tender offer by MITE Holdings for any and all shares of Chicago Rivet common stock at a price of $28 cash net to selling Chicago Rivet stockholders ("MITE's proposed tender offer"). MITE's proposed tender offer will comply with the federal legislation regulating interstate

tender offers (commonly known as the "Williams Act" amendments, 15 U.S.C. §§78m(d)-(e), 78n(d)-(e), to the Exchange Act) and the regulations promulgated thereunder. Under the Williams Act, a cash tender offer may commence immediately upon filing of a Schedule 14D-1. The offer must remain open for at least seven days. Accordingly, but for the Illinois Act and the Pennsylvania Law, MITE's proposed tender offer could have commenced immediately upon filing the Schedule 14D-1. MITE and MITE Holdings initially intended to commence the offer on January 24, 1979.

ANSWER:

24. Rivet lacks knowledge or information sufficient to form a belief as to the truth of the allegation that Mite has filed a Schedule 14D-1 as alleged in Paragraph 24 of the Complaint; and denies each and every remaining allegation in Paragraph 24 of the Complaint.

25. In 1968 Congress enacted the Williams Act amendments to the Exchange Act to regulate tender offers, which involve large interstate securities transactions and purchases of securities of corporations under the regulation of the SEC. 15 U.S.C. §§78m(d)-(e), 78n(d)-(e).

ANSWER:

25. Rivet denies each and every allegation contained in Paragraph 25 of the Complaint except admits that Congress enacted the Williams Act in 1968.

26. In enacting the Williams Act, Congress recognized that tender offers serve beneficial economic functions by, among other things, providing investors an opportunity to sell their shares at advantageous premiums over prevailing market prices.

ANSWER:

26. Rivet denies each and every allegation contained in Paragraph 26 of the Complaint.

27. The language of the Williams Act and its legislative history demonstrate the intent of Congress that, when an interstate offer is made for the shares of a public corporation, the success or failure of the offer should be left to the free and informed investment judgment of the shareholders of that corporation.

ANSWER:

27. Rivet denies each and every allegation contained in Paragraph 27 of the Complaint.

28. Senator Williams, a sponsor of the bill and Chairman of the Senate Subcommittee on Securities which recommended adoption of the Williams Act, clearly explained Congress' intention not to favor either side in a tender offer:

> "The committee has taken extreme care to avoid tipping the balance of regulation either in favor of management or in favor of the person making the takeover bid. The (Williams Act) is designed to require full and fair disclosure for the benefit of investors while at the same time providing the offeror and management equal opportunity to fairly present their case." 113 Cong. Reg. 24664 (1967).

ANSWER:

28. Rivet denies each and every allegation contained in Paragraph 28 of the Complaint.

29. Accordingly, the Williams Act is designed not to defeat or discourage tender offers but to establish evenhanded regulation which favors neither the offeror nor incumbent management of the corporation whose securities are being purchased.

ANSWER:

29. Rivet denies each and every allegation contained in Paragraph 29 of the Complaint.

30. For the protection of investors, the Williams Act requires that the offeror provide the information which Congress has judged to be material for an intelligent determination to sell their securities for a cash premium or to hold them.

ANSWER:

30. Rivet denies each and every allegation contained in Paragraph 30 of the Complaint.

31. The provisions of the Williams Act represent a comprehensive, carefully balanced, Congressional scheme which regulates the entire field of cash tender offers. No aspect of this type of securities transaction was ignored by Congress, and no part of it was left to state regulation.

ANSWER:

31. Rivet denies each and every allegation contained in Paragraph 31 of the Complaint.

COUNT I

32. Plaintiffs repeat and reallege the contents of paragraphs 1-6 and 9-31, inclusive, of this Second Amended Complaint, as if fully set forth herein.

ANSWER:

32. Rivet realleges and incorporates by reference its answers herein to Paragraphs 1-6 and 9-31 herein.

33. The Illinois Act, as amended, became effective on September 8, 1978. It was intended to regulate and does regulate interstate tender offers.

ANSWER:

33. Rivet denies each and every allegation contained in Paragraph 33 of the Complaint except admits that the Illinois Act, as amended, became effective on September 8, 1978.

34. The Illinois Act applies to any "take-over offer" for a "target company" (Illinois Act §2.09). For purposes of the Illinois Act, Chicago Rivet is a "target company" because Chicago Rivet has its principal executive office in Illinois and is organized under the laws of Illinois (Illinois Act §2.10(2)(a) and (b)). The Illinois Act, therefore, purports to regulate MITE's proposed tender offer for any and all shares of Chicago Rivet common stock.

ANSWER:

34. Rivet denies each and every allegation contained in Paragraph 34 of the Complaint except admits that Rivet has its principal executive office in Bellwood, Illinois and is organized under the laws of Illinois.

35. The Illinois Act prevented MITE's proposed tender offer from commencing on January 24, 1979 and for an indefinite time thereafter. The Illinois Act is invalid for the reasons set forth herein.

ANSWER:

35. Rivet denies each and every allegation contained in Paragraph 35 of the Complaint.

36. The Illinois Act violates the Exchange Act, including, but not limited to, Section 28, which preempts state regulation that conflicts with the provisions of the Exchange Act.

ANSWER:

36. Rivet denies each and every allegation contained in Paragraph 36 of the Complaint.

37. The Illinois Act violates the Constitution of the United States because it conflicts with, and stands as an obstacle to the accomplishment of, the objectives of Congress expressed in the Williams Act amendments to the Exchange Act and pursuant to the Supremacy Clause contained in Article IV, Clause 2, of the United States Constitution is, therefore, preempted.

ANSWER:

37. Rivet denies each and every allegation contained in Paragraph 37 of the Complaint.

38. The Illinois Act violates the Commerce Clause, Article I, Section 8, Clause 3, of the Constitution of the United States because the Illinois Act imposes a substantial, direct and adverse burden on interstate commerce and serves no legitimate local

interest adequate to justify the clearly excessive burden on interstate commerce which it imposes.

ANSWER:

38. Rivet denies each and every allegation contained in Paragraph 38 of the Complaint.

39. The Illinois Act denies rights protected by and enforceable under 42 U.S.C. §1983.

ANSWER:

39. Rivet denies each and every allegation contained in Paragraph 39 of the Complaint.

40. The Illinois Act clearly interferes with the purposes and objectives of the Williams Act. Provisions requiring advance notice of a tender offer, requirements concerning the duration of offers, and pro-rata purchase and withdrawal provisions, among others, of the Illinois Act explicitly conflict with comparable provisions of the Williams Act and constitute obstacles to the accomplishment of objectives of the federal statute.

ANSWER:

40. Rivet denies each and every allegation contained in Paragraph 40 of the Complaint.

41. The Illinois Act contravenes the purpose and spirit of the Williams Act by upsetting the carefully balanced neutrality of the federal provisions and by providing, contrary to the Congressional scheme, substantial advantages to the target corporation to defeat or delay a tender offer and by imposing, likewise contrary to Congressional intent, substantial obstacles to the ability and right of shareholders to

accept tender offers which fully comply with federal requirements.

ANSWER:

41. Rivet denies each and every allegation contained in Paragraph 41 of the Complaint.

42. The Illinois Act as a whole and in particular provisions conflicts with the Williams Act. These provisions include among others the following:

(a) a required minimum twenty business day waiting period before a tender offer can be commenced (Illinois Act §4E), a concept explicitly rejected by Congress;

(b) a mandatory indefinite delay of a tender offer if a majority of the target company's "outside" directors or an Illinois shareholder or group of shareholders holding beneficially or of record 10% of the shares of the target company request a hearing, which must then be held (Illinois Act §7), whereas the Williams Act provides for no pre-tender offer hearings;

(c) a mandatory indefinite delay of a tender offer if the Illinois Secretary of State unilaterally orders a hearing because he determines, in his sole judgment, that such delay is necessary for the protection of Illinois shareholders of the target company (Illinois Act §7.A.), whereas the Williams Act provides for no pre-tender offer hearings;

(d) an indefinite delay of the commencement of an offer in the event a hearing is requested, pending a decision by the Illinois Secretary of State (Illinois Act §7A, C, D), whereas the Williams Act permits the offer to commence immediately.

(e) a required twenty day period for a tender offer to remain open (Illinois Act §9B), whereas the Williams Act permits a tender offer to be completed within seven days of announcement (ten days in the case of a partial offer);

(f) withdrawal rights at any time within seventeen days (Illinois Act §9C), which differs substantially from and is in conflict with the seven day provision under the Williams Act;

(g) denial of effectiveness of a proposed tender offer if, in the sole opinion of the Illinois Secretary of State, (i) the offer is "inequitable" even though federal law requires the marketplace to decide upon the fairness of the offer, or (ii) the offer fails to provide full and fair disclosure to the offerees under Illinois law, even though the offer is in compliance with federal disclosure standards (Illinois Act §7E);

(h) proration of acceptances of a partial offer for the entire period of the offer (Illinois Act §9D), whereas the Williams Act requires proration of only those acceptances made during the initial ten days of the offer;

(i) pre-tender offer disclosures (Illinois Act §4B), which cause substantial disruptions in national securities markets, a requirement which was explicitly rejected by Congress;

(j) burdensome disclosure of speculative and immaterial information (Illinois Act §4C), not required to be disclosed under the Williams Act, with the effect of further delaying a tender offer; and

(k) prohibition of tender offers which are not made to shareholders of the target company who are

residents of Illinois on the same terms as to shareholders elsewhere (Illinois Act §9A), the effect of which is that the Illinois Act competes with the Williams Act as a national system of regulation.

ANSWER:

42. Rivet denies each and every allegation contained in Paragraph 42 of the Complaint.

43. By impeding plaintiffs' §28 cash tender offer for Chicago Rivet, the Illinois Act imposes a substantial burden on interstate commerce in violation of the Commerce Clause of the Constitution of the United States.

ANSWER:

43. Rivet denies each and every allegation contained in Paragraph 43 of the Complaint.

44. Defendant Dixon intends to enforce the Illinois Act against plaintiffs and their representatives. Actual or threatened enforcement of the Illinois Act by the defendants, unless enjoined, will cause immediate, serious, substantial and irreparable injury to MITE and its shareholders, to MITE Holdings, and to the shareholders of Chicago Rivet in the following respects, among others:

(a) If MITE and MITE Holdings elect to forego commercial activity which is protected by the Williams Act and by the United States Constitution in order to avoid the harsh criminal and civil penalties which noncompliance with the Illinois Act would threaten to impose upon them, they will be deprived of their right under the Williams Act to make their tender offer at a premium above the

market price to shareholders of Chicago Rivet who reside throughout the United States, causing the following irreparable injury to MITE and MITE Holdings and to shareholders of CHICAGO RIVET, among others:

(i) MITE and MITE Holding will irretrievably lose the opportunity to acquire Chicago Rivet, a unique company;

(ii) MITE and MITE Holding will be prevented from injecting up to approximately $23 million in interstate commerce; and

(iii) Shareholders of Chicago Rivet residing throughout the United States, including those residing outside of Illinois, will forever lose their right to sell their Chicago Rivet shares pursuant to the tender offer at the substantial premium above market which MITE and MITE Holdings intend and wish to offer them.

(b) If MITE and MITE Holdings go forward with their tender offer notwithstanding the threat of enforcement of the Illinois Act, even though they have fully complied with the Williams Act and have made full and fair disclosure of all material facts to Chicago Rivet shareholders, MITE and MITE Holdings will suffer the following irreparable injury, among others:

(i) MITE, MITE Holdings and their representatives will be subject to criminal penalties for failure to comply with the provisions of the Illinois Act;

(ii) MITE, MITE Holdings and their representatives may be subject to arduous,

lengthy and expensive administrative proceedings in which they will be unable fully to raise or have adjudicated their claims that the Illinois Act is unconstitutional; and

(iii) MITE, MITE Holdings and their representatives will be subject to civil liabilities for their failure to comply with the unconstitutional Illinois Act.

(c) If MITE and MITE Holdings attempt to avoid the harm and irreparable injury set forth above by foregoing their rights under the Williams Act and the United States Constitution and by complying with the onerous and burdensome requirements of the Illinois Act, MITE, MITE Holdings and Chicago Rivet shareholders will nonetheless suffer the following irreparable injury, among others:

(i) MITE and MITE Holdings will be subjected to unnecessary, unreasonable and possibly indefinite delay of their proposed tender offer, necessitating the expenditure of substantial sums of money, none of which could ever be recovered;

(ii) MITE and MITE Holdings will be required to tie up substantial amounts of money for an indefinite period of time, thereby causing them to forego valuable alternative investment opportunities the monetary value of which is incalculable and unrecoverable; and

(iii) The market for securities of MITE and Chicago Rivet traded on national securities exchanges will be substantially affected and dis-

rupted in a manner which cannot be eliminated or repaired.

ANSWER:

44. Rivet lacks knowledge or information sufficient to form a belief as to the truth of the allegation that defendant Dixon intends to enforce the Illinois Act against plaintiffs and their representatives and denies each and every remaining allegation contained in Paragraph 44 of the Complaint.

45. Plaintiffs have no adequate remedy at law. Only through the exercise of this Court's equitable powers to enjoin the operation of the Illinois Act will MITE, its shareholders, MITE Holdings, Chicago Rivet's shareholders and the public be fully protected from immediate and irreparable loss and damages.

ANSWER:

45. Rivet denies each and every allegation contained in Paragraph 45 of the Complaint.

COUNT II

46. Plaintiffs repeat and reallege the contents of paragraphs 1-6 and 16-31 inclusive of this Second Amended Complaint, as if fully set forth herein.

ANSWER:

46. Rivet realleges and incorporates by reference its answers herein to Paragraphs 1-6 and 16-31 herein.

47. The Pennsylvania Law became effect March 3, 1976. It was intended to regulate and does regulate interstate tender offers.

ANSWER:

47. Rivet denies each and every allegation contained in Paragraph 47 of the Complaint except admits that the Pennsylvania Law became effective on March 3, 1976.

48. The Pennsylvania Act applies to any "takeover offer" for a "target company" (Pennsylvania Law §3). To qualify as a "target company" for purposes of the Pennsylvania Law, a corporation (1) must be organized under the laws of Pennsylvania *or* (2) must have its principal place of business *and* substantial assets located in Pennsylvania (Pennsylvania Law §3).

ANSWER:

48. Rivet denies each and every allegation contained in Paragraph 48 of the Complaint.

49. On Monday, January 22, 1979, Chicago Rivet brought suit in the Court of Common Pleas of Blair County, Pennsylvania, Civil Division — Equity, No. 3203 seeking to invoke the Pennsylvania Law against MITE, MITE Holdings, their officers and directors, Wertheim & Co., Inc., and Wertheim & Co. in connection with MITE's proposed tender offer.

ANSWER:

49. Rivet denies each and every allegation contained in Paragraph 49 of the Complaint except admits that on Monday, January 22, 1979, Rivet brought suit in the Court of Common Pleas of Blair County, Pennsylvania, Civil Division — Equity No. 3203 against Mite, Mite Holdings, certain offi-

cers and/or directors of Mite and/or Mite Holdings Wertheim & Co., Inc. and Wertheim & Co.

50. On Monday, January 22, 1979, Judge Eugene J. Ianuzzi of the Court of Common Pleas of Blair County, Pennsylvania issued an *ex parte* order preliminary enjoining MITE, MITE Holdings, their officers and directors, Wertheim & Co., Inc., and Wertheim & Co. from, among other things, acquiring or attempting to acquire any common stock of Chicago Rivet or making any tender offer involving the common stock of Chicago Rivet.

ANSWER:

50. Rivet denies each and every allegation contained in Paragraph 50 of the Complaint and further states that the alleged order speaks for itself.

51. On Monday, January 22, 1979, Chicago Rivet filed a Complaint with the Pennsylvania Securities Commission seeking to invoke the Pennsylvania Law against MITE and MITE Holdings and their officers and directors in connection with MITE's proposed tender offer.

ANSWER:

51. Rivet denies each and every allegation contained in Paragraph 51 of the Complaint except admits that on Monday, January 22, 1979, Rivet filed a Complaint with the Pennsylvania Securities Commission, which Complaint speaks for itself.

52. The Pennsylvania Law, if applicable, would have prevented MITE's proposed tender offer from commencing on January 24, 1979 and for an indefinite time thereafter. The Pennsylvania Act is invalid for the reasons set forth herein.

ANSWER:

52. Rivet denies each and every allegation contained in Paragraph 52 of the Complaint.

53. The Pennsylvania Law violates the Exchange Act, including, but not limited to, Section 2B thereof, which preempts state regulation that conflicts with the provisions of the Exchange Act.

ANSWER:

53. Rivet denies each and every allegation contained in Paragraph 53 of the Complaint.

54. The Pennsylvania Law violates the Constitution of the United States because it conflicts with, and stands as an obstacle to the accomplishment of, the objectives of Congress expressed in the Williams Act amendments to the Exchange Act and pursuant to the Supremacy Clause contained in Article IV, Clause 2, of the United States Constitution is, therefore, preempted.

ANSWER:

54. Rivet denies each and every allegation contained in Paragraph 54 of the Complaint.

55. The Pennsylvania Law violates the Commerce Clause, Article I, Section 8, Clause 3, of the Constitution of the United States because the Pennsylvania Law imposes a substantial, direct and adverse burden on interstate commerce and serves no legitimate local interest adequate to justify the clearly excessive burden on interstate commerce which it imposes.

ANSWER:

55. Rivet denies each and every allegation contained in Paragraph 55 of the Complaint.

56. The Pennsylvania Law denies rights protected by and enforceable under 42 U.S.C. §1983.

ANSWER:

56. Rivet denies each and every allegation contained in Paragraph 56 of the Complaint.

57. The Pennsylvania Law contravenes the purpose and spirit of the Williams Act by upsetting the carefully balanced neutrality of the federal provisions and by providing, contrary to the Congressional scheme, substantial advantages to the target corporation to defeat or delay a tender offer and by imposing, likewise contrary to Congressional intent, substantial obstacles to the ability and right of shareholders to accept tender offers which fully comply with federal requirements, all of which constitute obstacles to the accomplishments of objectives of the federal statute.

ANSWER:

57. Rivet denies each and every allegation contained in Paragraph 57 of the Complaint.

58. The Pennsylvania Law as a whole and in particular provisions conflicts with the Williams Act. These provisions include among others the following:

(a) a required minimum twenty day waiting period before a tender offer can be commenced (Pennsylvania Law §4(a)), a concept explicitly rejected by Congress;

(b) indefinite delay of a tender offer by hearings which may be commenced by the Pennsylvania Securities Commission on its own initiative or at the request of a target company (Pennsylvania Law §4(d)), whereas the Williams Act provides for no pre-tender offer hearings;

(c) a mandatory indefinite delay of a tender offer if the Pennsylvania Securities Commission summarily determines that the takeover offer fails to provide full and fair disclosure to offerees of all material information (Pennsylvania Law §4(c)), even though the offer is in full compliance with federal disclosure standards;

(d) burdensome disclosure of speculative and immaterial information (Pennsylvania Law §5) not required to be disclosed under the Williams Act, with the effect of further delaying a tender offer; and

(e) adopting a "fiduciary" approach to other regulation of interstate tender offers in conflict with the "market" approach adopted by Congress, exemplified, for example, by the provision which exempts from coverage of the statute tender offers approved by the incumbent board of directors (Pennsylvania Law §8(a)).

ANSWER:

58. Rivet denies each and every allegation contained in Paragraph 58 of the Complaint.

59. By impeding plaintiffs' $28 cash tender offer for Chicago Rivet, the Pennsylvania Law imposes a substantial burden on interstate commerce in violation of the Commerce Clause of the Constitution of the United States.

ANSWER:

59. Rivet denies each and every allegation contained in Paragraph 59 of the Complaint.

60. Defendant Chicago Rivet has invoked and continues to invoke the Pennsylvania Law against plaintiffs and their representatives, causing immediate, serious, substantial and irreparable injury to MITE and its shareholders, to MITE Holdings, and to the shareholders of Chicago Rivet in the following respects, among others:

(a) If MITE and MITE Holdings elect to forego commercial activity which is protected by the Williams Act and by the United States Constitution in order to avoid the harsh criminal and civil penalties which noncompliance with the Pennsylvania Law would threaten to impose upon them, they will be deprived of their right under the Williams Act to make their tender offer at a premium above the market price to shareholders of Chicago Rivet who reside throughout the United States, causing the following irreparable injury to MITE and MITE Holdings and to shareholders of Chicago Rivet, among others:

(i) MITE and MITE Holdings will irretrievably lose the opportunity to acquire Chicago Rivet, a unique company;

(ii) MITE and MITE Holdings will be prevented from injecting up to approximately $23 million in interstate commerce; and

(iii) Shareholders of Chicago Rivet residing throughout the United States, including those re-

siding outside of Pennsylvania, will forever lose their right to sell their Chicago Rivet shares pursuant to the tender offer at the substantial premium above market which MITE and MITE Holdings intend and wish to offer them.

(b) If MITE and MITE Holdings go forward with their tender offer notwithstanding the threat of enforcement of the Pennsylvania Law, even though they have fully complied with the Williams Act and have made full and fair disclosure of all material facts to Chicago Rivet shareholders, MITE and MITE Holdings will suffer the following irreparable injury, among others:

(i) MITE, MITE Holdings and their representatives will be subject to criminal penalties for failure to comply with the provisions of the Pennsylvania Act;

(ii) MITE, MITE Holdings and their representatives may be subject to arduous, lengthy and expensive administrative proceedings in which they will be unable fully to raise or have adjudicated their claims that the Pennsylvania Law is unconstitutional; and

(iii) MITE, MITE Holdings and their representatives will be subject to civil liabilities for their failure to comply with the unconstitutional Pennsylvania Law.

(c) If MITE and MITE Holdings attempt to avoid the harm and irreparable injury set forth above by foregoing their rights under the Williams Act and the United States Constitution and by complying with the onerous and burdensome require-

ments of the Pennsylvania Law, MITE, MITE Holdings and Chicago Rivet shareholders will nonetheless suffer the following irreparable injury, among others:

(i) MITE and MITE Holdings will be subjected to unnecessary, unreasonable and possibly indefinite delay of their proposed tender offer, necessitating the expenditure of substantial sums of money, none of which could ever be recovered;

(ii) MITE and MITE Holdings will be required to tie up substantial amounts of money for an indefinite period of time, thereby causing them to forego valuable alternative investment opportunities the monetary value of which is incalculable and unrecoverable; and

(iii) The market for securities of MITE and Chicago Rivet traded on optional securities exchanges will be substantially affected and disrupted in a manner which cannot be eliminated or repaired.

ANSWER:

60. Rivet denies each and every allegation contained in Paragraph 60 of the Complaint.

61. Plaintiffs have no adequate remedy at law. Only through the exercise of this Court's equitable powers to enjoin the operation of the Pennsylvania Law will MITE, its shareholders, MITE Holdings, Chicago Rivet's shareholders and the public be fully protected from immediate and irreparable loss and damages.

ANSWER:

61. Rivet denies each and every allegation contained in Paragraph 61 of the Complaint.

COUNT III

62. This count is brought individually and derivatively by plaintiff MITE on behalf of Chicago Rivet & Machine Co. against the director-officer defendants.

ANSWER:

62. Rivet admits that Mite purports to bring this count individually and derivatively on behalf of Rivet and denies each and every remaining allegation contained in Paragraph 62 of the Complaint.

63. Plaintiff realleges paragraph 3 through 5 and 6 through 23. MITE was a shareholder of Chicago Rivet prior to the time of the transactions complained of, and has been such a shareholder continuously to the present. MITE presently owns beneficially 23,800 shares of Chicago Rivet common stock.

ANSWER:

63. Rivet realleges and incorporates by reference its answers herein to Paragraphs 3-5 and 6-23 herein and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 63 of the Complaint.

64. No demand has been made by MITE upon Chicago Rivet or its board of directors to institute and prosecute an action against the defendants named in this Count III for the acts and transactions

herein complained of, for the reason that all the present officers and directors of Chicago Rivet are named as defendants herein and are responsible for the acts, transactions and delinquencies herein complained of. No action could be or would be permitted to be instituted by Chicago Rivet without the consent of its directors and demand upon them would be entirely useless and futile. Chicago Rivet's board of directors could not and would not diligently prosecute this action, because by doing so the directors would, in effect, be suing themselves.

ANSWER:

64. Rivet admits that no demand has been made by Mite upon Rivet or its board of directors to institute and prosecute an action against defendants named in Count III of the Complaint for the acts and transactions therein complained of and Rivet denies each and every remaining allegation contained in Paragraph 64 of the Complaint.

65. No demand has been made by MITE upon the shareholders of Chicago Rivet to bring this action because to do so would be useless and futile. The transactions complained of herein are illegal, null and void and cannot be ratified by less than the unanimous consent of the stockholders.

ANSWER:

65. Rivet denies each and every allegation contained in Paragraph 65 of the Complaint.

66. This is not a collusive action to confer upon a court of the United States jurisdiction of an action which it would not otherwise have.

ANSWER:

66. Rivet admits the allegations contained in Paragraph 66 of the Complaint.

67. The directors and executive officers of Chicago Rivet collectively own a total of 101,904 shares of Chicago Rivet common stock, including 21,600 shares held by an employees trust of which certain director-officer defendants are trustees. Thus, these directors and officers personally own approximately 80,304 shares or approximately 9.3% of all outstanding Chicago Rivet shares.

ANSWER:

67. Rivet denies each and every allegation contained in Paragraph 67 of the Complaint.

68. On February 5, 1979, defendant Chicago Rivet made an offer to purchase up to at least 350,000 shares of its own common stock for cash at $30 net per share (the "Chicago Rivet offer"). The offer will expire at 4:00 p.m. C.S.T February 14, 1979, 15 hours prior to the expiration of the MITE offer. These shares will be placed in the treasury and will cease to be outstanding. The Chicago Rivet offer is attached as Exhibit I to this Second Amended Complaint.

ANSWER:

68. Rivet admits that on February 5, 1979 it made an offer to purchase up to 350,000 shares of its own common stock for cash at $30 net per share and that the shares so purchased will be placed in treasury and will cease to be outstanding, admits that a document which is titled "Offer to Purchase

350,000 Shares of its Common Stock par value $2.00 per share, by Chicago Rivet & Machine Co. for cash at $30.00 Net Per Share" ("Rivet Offer") appears to be attached as Exhibit 1 to the Complaint and denies each and every remaining allegation contained in Paragraph 68 of the Complaint.

69. The Chicago Rivet offer states that holders of 285,000 Chicago Rivet shares including all of Chicago Rivet's directors and officers have stated that they do not intend to tender their shares either to Chicago Rivet or to MITE Holdings. 285,000 shares is 32.8% of all outstanding Chicago Rivet shares. The holders of these shares other than the directors and officers are not identified in the Chicago Rivet offer and their identities are presently unknown to plaintiffs.

ANSWER:

69. Rivet denies each and every allegation contained in Paragraph 69 of the Complaint, except that Rivet is without knowledge or information sufficient to form a belief as to the truth of the allegation that the identity of the holders of these shares, other than the directors and officers, is presently unknown to plaintiff and further states that the Rivet Offer speaks for itself.

70. If the Chicago Rivet offer is consummated, the total of outstanding Chicago Rivet shares will be reduced from 866,264 to 516,264, and the group holding 285,000 shares will own approximately 55% of all outstanding Chicago Rivet shares.

ANSWER:

70. Rivet denies each and every allegation contained in Paragraph 70 of the Complaint.

71. The Chicago Rivet offer embodies a plan and conspiracy to reduce the number of outstanding shares of Chicago Rivet common stock so as to confer effective control of Chicago Rivet upon the director-officer defendants who individually own only 9.3% of Chicago Rivet's common stock and other unidentified members of their group.

ANSWER:

71. Rivet denies each and every allegation contained in Paragraph 71 of the Complaint.

72. The Chicago Rivet offer states that it will reduce the book value per share of Chicago Rivet stock from $24.06 per share to $19.85 per share.

ANSWER:

72. Rivet denies each and every allegation contained in Paragraph 72 of the Complaint.

73. The Chicago Rivet offer states:

"This offer is being made despite the belief of the Board of Directors that the price is inadequate, because of a desire to permit shareholders who wish to sell their stock to do so at a higher price and without selling to MITE Holdings, Inc." (Ex. 1, cover page)

"To the extent that shares of Stock are purchased pursuant to the Offer, there may be fewer outstanding shares of Stock remaining in the hands of shareholders willing to tender pursuant

to an offer by MITE or another offeror (if any). As a result, the Offer may also have the effect of discouraging MITE or other possible offerors (if any) from making an offer to purchase shares of Stock, whether for greater or for lesser consideration than that offered herein." (Ex. 1, p. 7.)

ANSWER:

73. Rivet denies each and every allegation contained in Paragraph 73 of the Complaint and further answering states that the Rivet Offer speaks for itself.

74. The Chicago Rivet offer falsely states that MITE has indicated that if it acquires control it may change Chicago Rivet's business policies and that MITE has not disclosed changes in business policy which it intends. That offer also contains a statement that MITE has refused to respond to a request for information. This statement in context conveys the false impression that MITE refused to respond to a request for information concerning its intentions concerning changes in Chicago Rivet's business policy or corporate structure when no such request was ever made of MITE by Chicago Rivet.

ANSWER:

74. Rivet denies each and every allegation contained in Paragraph 74 of the Complaint.

75. The Chicago Rivet offer is in violation of the director-officer defendants' fiduciary duties and constitutes waste and mismanagement of corporate assets and improper expenditure of corporate funds for, among others, the following reasons:

a. The offer has no valid corporate purpose.

b. The offer reduces book value per share.

c. The offer transfers share control of Chicago Rivet to the director-officer defendants and their group without any personal expenditure by these defendants or their group.

d. The offer threatens to deprive the remaining holders of 221,000 Chicago Rivet shares of the benefits of the MITE offer, which is made for any and all Chicago Rivet shares.

e. Defendant directors and each of them authorized the Chicago Rivet offer despite a conflict of interest which should have prevented them from approving expenditure of corporate funds to transfer share control to them and their group for no consideration.

f. The offer is a strategem designed to discourage and prevent the MITE offer;

g. The defendant directors recommended against any shareholder tendering his shares pursuant to the Chicago Rivet offer, thereby (i) estopping the directors from claiming a valid purpose for that offer and (ii) confirming its manipulative and illegal intent;

h. The mere announcement of the Chicago Rivet offer was designed to impede, and will, if permitted to continue, have the effect of impeding the consummation of the MITE cash offer at $28 per share, with the purpose of perpetuating the director-officer defendants in control and depriving the other Chicago Rivet shareholders of the benefits of the MITE offer.

ANSWER:

75. Rivet denies each and every allegation contained in Paragraph 75 of the Complaint.

76. The director-officer defendants' other activities to resist, delay and defeat MITE's tender offer for no proper purpose as alleged hereinabove also constitute a breach of fiduciary duty, waste and mismanagement of corporate assets and improper expenditure of corporate funds, for which these defendants should account.

ANSWER:

76. Rivet denies each and every allegation contained in Paragraph 76 of the Complaint.

77. Chicago Rivet's offer will cause further immediate, serious, substantial and irreparable injury to Chicago Rivet and its shareholders by depriving them of the benefits of the MITE offer. These benefits cannot be measured in damages. There is no adequate remedy at law.

ANSWER:

77. Rivet denies each and every allegation contained in Paragraph 76 of the Complaint.

COUNT IV

78. This Count IV is brought by plaintiffs MITE Corporation and MITE Holdings, Inc. against all defendants except Dixon.

ANSWER:

78. Rivet admits that plaintiffs purport to bring Count IV against all defendants except Dixon and

denies each and every remaining allegation contained in Paragraph 78 of the Complaint.

79. Plaintiffs reallege paragraphs 63 and 67 through 77 of Count III.

ANSWER:

79. Rivet realleges and incorporates by reference its answers herein to Paragraphs 63 and 67-77 of the Complaint.

80. Chicago Rivet's offer contains untrue statements of material fact and omits to state material facts necessary to make statements made therein, in light of the circumstances in which they were made, not misleading, in violation of Section 14(e) of the Exchange Act, in among others, the following respects:

a. The offer fails to disclose the identity of the holders of 285,000 shares of Chicago Rivet stock other than officers or directors holding 101,904 shares who together with the officers and directors have stated their intention not to tender their shares.

b. The offer fails to state that upon successful completion of the offer, the 285,000 share group will own approximately 55% of Chicago Rivet's stock and will effectively control Chicago Rivet.

c. The offer fails to disclose the plans, purposes, agreements, consideration, or any other matters concerning the intentions of the 285,000 share group.

d. The offer falsely conveys the impression that the directors urge shareholders not to tender to

Chicago Rivet while at the same time brokers and dealers nationwide are offered a 30 cent per share solicitation fee.

e. The offer falsely states that MITE failed to disclose its intentions concerning the business plans and corporate structure of Chicago Rivet.

f. The offer fails to state that the information request to which MITE declined to respond had no relation to its intentions concerning Chicago Rivet's business or corporate structure.

ANSWER:

80. Rivet denies each and every allegation contained in Paragraph 80 of the Complaint.

81. The Chicago Rivet offer is a fraudulent, deceptive and manipulative practice in connection with the MITE offer and with solicitation against the MITE offer in violation of Section 14(e) of the Exchange Act, in among others the following respects:

a. The offer fraudulently and deceptively conveys the impression that the MITE offer is inadequate.

b. The offer uses corporate funds to establish a bidding contest for Chicago Rivet's shares when in fact there is no other bidder than MITE.

c. The offer, even if it is never consummated, poisons the market for the MITE offer when in fact there is no viable alternative bidder than MITE for Chicago Rivet's stock.

d. The offer uses corporate funds to convey share control to the 285,000 share group while preventing the proper operation of an auction market for Chicago Rivet's stock.

e. The offer's excess shares provision (Ex. 1, p. 5) is an inherently fraudulent inducement to tender because MITE may withdraw its offer after the Chicago Rivet offer is closed and because in any event the 15 hours between the closing of the two offers is insufficient time to complete the tender to MITE.

ANSWER:

81. Rivet denies each and every allegation contained in Paragraph 81 of the Complaint.

82. MITE will be seriously, substantially and irreparably injured by the Chicago Rivet offer. MITE has no adequate remedy at law.

ANSWER:

82. Rivet denies each and every allegation contained in Paragraph 82 of the Complaint.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Rivet has not engaged — nor even threatened — any act which could constitute "state action" as required by 42 U.S.C. §1983.

THIRD DEFENSE

Plaintiffs — by flagrantly stating that they will not comply with any provision of the Illinois Act — have failed to exhaust their readily available administrative remedies.

FOURTH DEFENSE

The Pennsylvania Securities Commission is an indispensable party but has not been joined in the action.

FIFTH DEFENSE

Plaintiffs have no standing to bring a derivative action against Rivet because of their conflict of interest with other Rivet shareholders.

SIXTH DEFENSE

Plaintiffs, as a tender offeror, have no standing to bring an action under Section 14(e) of the Securities Exchange Act of 1934.

SEVENTH DEFENSE

Plaintiffs fail to state a cause of action for injunctive relief in Counts III and IV since they have an adequate remedy at law.

WHEREFORE, Rivet prays that this Court enter an order:

A. Granting judgment in its favor and against Plaintiffs dismissing the Second Amended Complaint;

B. Awarding Rivet its costs and reasonable attorneys' fees incurred herein; and

C. Granting such other relief as the Court may deem appropriate.

Duane C. Quaini
Lawrence R. Samuels
Robert H. King, Jr.

By _____
One of the Attorneys for
Defendant, Chicago Rivet
& Machine Co.

Of Counsel:

SONNENSCHEIN CARLIN NATH
& ROSENTHAL
8000 Sears Tower
Chicago, Illinois 60606
(312) 876-8000

Dated: February 9, 1979

VERIFICATION

Ralph W. Jindrich, on oath, states that he is Chairman of the Board of Directors and President of Chicago Rivet & Machine Co., that he has read the Foregoing Answer to Second Amended Complaint and that the Answer is true and correct to the best of his knowledge, information and belief.

/s/ Ralph W. Jindrich

Subscribed and sworn
to before me this 8th
day of February, 1979.

/s/ Helen Eagle
Notary Public

APPENDIX G

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC.,

Plaintiffs,

No. 79 C 200

v.

ALAN J. DIXON and CHICAGO
RIVET & MACHINE CO.,

Defendants.

TRANSCRIPT OF PROCEEDINGS

had in the above-entitled cause before the Honorable JOHN POWERS CROWLEY, one of the judges of said Court, in his courtroom in the United States Courthouse, Chicago, Illinois, on Monday, January 22, 1979, at 10:00 a.m.

PRESENT:

MR. CHESTER T. KAMIN
MR. RONALD L. MARMER
MR. RICHARD HULBERT
on behalf of Plaintiffs;

MR. WILLIAM SHAPIRO,
Assistant Attorney General of the State of Illinois,
on behalf of Defendant Dixon;

MR. DUANE QUAINI and
MR. LARRY SAMUELS,
on behalf of Defendant Chicago Rivet.

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[page 5]

MR. QUAINI: I would like to advise the Court of other litigation which has been commenced this morning in connection with this tender offer.

THE COURT: All right.

MR. QUAINI: By the defendant, Chicago Rivet.

An action was filed this morning, your [page 6] Honor, in the Court of Common Pleas of Blair County, Pennsylvania, which is located in Hollidaysburg, Pennsylvania, right outside of Altoona, by Chicago Rivet v. Mite Corporation, Mite Holdings, Inc., its officers and directors of both companies and Wertheim & Co., and Wertheim & Co., Inc. Your Honor, that —

THE COURT: Who are Wertheim & Co.?

MR. QUAINI: Wertheim & Co., Inc., is the dealer-manager of the proposed offer. Wertheim & Co., is a partnership which owns the stock of Wertheim & Co., Inc.

THE COURT: O.K.

MR. QUAINI: Your Honor, that action sought a temporary restraining order, or what is a Pennsylvania version of a temporary restraining order, preventing the tender offer from proceeding until compliance is had with the Pennsylvania Business Take-Over Act and the Pennsylvania securities laws, both of which it is alleged Mite et al. have violated, and a temporary restraining order was, in fact, entered, your Honor, this morning prohibiting the tender offer from proceeding. The entry of that order was at approximately 8:45 a.m., Chicago time. A hearing was set on a

preliminary injunction for this Friday at 9:00 a.m., before the Court. A bond was set in the a mount of $3,000 and I believe, your [page 7] Honor, that bond has been posted by now. It was in the process of being posted when I was walking over to court.

We immediately contacted plaintiffs' counsel and have supplied them with a copy of those papers.

There is a second piece of litigation which has been instituted this morning and that is before the Pennsylvania Securities Commission, which has jurisdiction over the Take-Over statute in Pennsylvania and over the securities law of Pennsylvania. A complaint was filed by Chicago Rivet against Mite Corporation, Mite Holdings, Inc., and its officers and directors, or the officers and directors of both corporations, alleging that, again, that the provisions of the Pennsylvania Take-Over Act and the Pennsylvania Securities laws are being violated by Mite's conduct in this matter and seeking to have the Pennsylvania Securities Commission assert jurisdiction over the matter, take appropriate action, including seeking an injunction in the Commonwealth Court in Harrisburg, Pennsylvania, to bar further proceedings on this tender offer pending compliance by Mite with the applicable provisions of the Pennsylvania Act.

It is my understanding, your Honor, from Pennsylvania counsel that that action was filed or [page 8] was about to be filed at about 9:00 o'clock or 9:15 a.m., again Chicago time, this morning.

I have also furnished counsel for the plaintiffs with the copies that we have.

I might say, your Honor, that with regard to the matter in the Court of Common Pleas in which the temporary restraining order was entered this morning, I have served upon counsel a conformed copy of the order itself, filled in by us via telephone communications with our attorneys in Blair County.

Your Honor, I have copies of all of those papers for the Court should the Court want to review them.

THE COURT: All right, I would sure like to see them.

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[page 12]

THE COURT: Let me ask Mr. Shapiro, what is Mr. Dixon's position?

MR. SHAPIRO: Well, your Honor, as of Friday the Secretary of State had made no decision whatsoever as far as taking any action. It was the first time that they were apprised and that was via a telephone call from Mr. Kamin to Mr. Ring in the Securities office. I had various conversations with him on Friday and it was the decision at that time to make no decision until we have had a chance to examine the papers, and in light of the fact that there is a proceeding in Pennsylvania, I think that the Secretary of State would make the decision not to assume jurisdiction.

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APPENDIX H

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC.,

Plaintiffs,

v. No. 79 C 200

ALAN J. DIXON and CHICAGO
RIVET & MACHINE CO.,

Defendants.

TRANSCRIPT OF PROCEEDINGS

had in the above-entitled cause before the Honorable JOHN POWERS CROWLEY, one of the Judges of said Court, in his courtroom in the United States Courthouse, Chicago, Illinois, on Tuesday, January 23, 1979, at 9:30 a.m.

PRESENT:

MR. CHESTER T. KAMIN
MR. RONALD L. MARMER
MR. RICHARD HULBERT

MR. WILLIAM SHAPIRO

MR. DUANE QUAINI
MR. LAWRENCE SAMUELS.

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[page 2]

THE COURT: Let me find out first, let's find out the No. 1 question, and it is not necessarily dispositive, but what is the position of the Secretary of State?

MR. SHAPIRO: The position of the Secretary of State is this, your Honor, we do not believe that the comity provision will apply in this matter because although Pennsylvania has a valid statutory protection for Illinois offerees, as to disclosure provisions, the provisions dealing with the length of the time the offer must remain open, the pro rata portion of their Act and also the right of withdrawal is substantially [page 3] different than our Act and therefore it was the decision of the Secretary of State not to defer to Pennsylvania on that regard.

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[page 11]

MR. SHAPIRO: We will agree, your Honor, that we won't file any action in the Circuit Court of Cook County without giving Mr. Kamin adequate opportunity to come before your Honor.

THE COURT: There was another proviso, advising me before your file —

MR. SHAPIRO: We will advise you also.

THE COURT: O.K., so we have got, in effect, a status quo order by both defendants.

Now, let me ask you, before you state your position, Mr. Kamin, as I understood from your papers that were filed last night, you are going to file a — when I say "you" obviously I am talking about your client — is going to file a petition for removal?

MR. KAMIN: That is correct, it has been filed.

THE COURT: Based upon diversity.

MR. KAMIN: It has been filed this morning in the Federal Court.

THE COURT: O.K.

MR. KAMIN: And they are trying to find Hollidaysburg, Pennsylvania, and within a few minutes it will be filed out there.

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC.,

Plaintiffs,

v. No. 79 C 200

ALAN J. DIXON and CHICAGO
RIVET & MACHINE CO.,

Defendants.

TRANSCRIPT OF PROCEEDINGS

had in the above-entitled cause before the Honorable JOHN POWERS CROWLEY, one of the Judges of said Court, in his courtroom in the United States Courthouse, Chicago, Illinois, on Friday, February 2, 1979, at 10:20 a.m.

PRESENT:

MR. CHESTER T. KAMIN
MR. RICHARD HULBERT
on behalf of Plaintiffs;

MR. WILLIAM SHAPIRO,
Assistant Attorney General of the State of Illinois,
on behalf of Defendant Dixon;

MR. DUANE QUAINI and

MR. LARRY SAMUELS,
on behalf of Defendant Chicago Rivet.

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THE CLERK: 79 C 200, Mite V. Dixon, second amended motion for temporary restraining order and preliminary injunction.

THE COURT: O.K.

MR. KAMIN: Good morning, your Honor.

THE COURT: What happened in Pittsburgh?

MR. QUAINI: Good morning, your Honor.

MR. KAMIN: Well, we tried to, as you know, put this case on the back burner —

THE COURT: Right.

MR. KAMIN: — and the Pennsylvania Securities Commission didn't think the Pennsylvania statute applied and Judge Snyder said that he thought that disposed of the matter.

THE COURT: Right, it made it moot there. O.K.

MR. KAMIN: So we now have the letter from the Secretary to me on behalf of Mite, which I have attached to the motion.

THE COURT: Right. I received a copy of it.

MR. KAMIN: This was pursuant to the status quo order that was entered on the 24th, and we received this late yesterday afternoon and filed our second amended motion attaching it and placing it before the Court.

Under this notice, if I understand it correctly, a cease and desist order has been issued.

• • •

[page 3]

THE COURT: Which will not take effect —

MR. KAMIN: Which will not be served until the 5th.

THE COURT: Until the 5th of February.

MR. KAMIN: Which is a Monday, so that we are certainly at issue now in this case.

THE COURT: And as I see it, the reason for the cease and desist order as set forth in the notice of the Secretary of State is that Mite has not registered this tender offer with the Secretary as required under the Act.

MR. SHAPIRO: That is correct.

THE COURT: O.K.

MR. SHAPIRO: Your Honor, as a preliminary matter, I would like to ask leave of court to adopt the answer of Chicago Rivet to the First Amended Complaint as the Answer of the Secretary of State to the First Amended Complaint.

THE COURT: O.K.

MR. QUAINI: Your Honor, may I —

MR. KAMIN: Can I just say one other thing?

THE COURT: Sure.

MR. KAMIN: The motion, since we have not received any notice from Chicago Rivet that they are seeking any action, although they indicate in the memo that we got this morning that they feel that they might do that, we [page 4] have only moved with respect to the Secretary —

THE COURT: Right.

MR. KAMIN: — and the only relief that we are seeking is against the Secretary.

THE COURT: Right.

MR. QUAINI: Your Honor, may I try to outline the position of Chicago Rivet?

THE COURT: Sure.

MR. QUAINI: First of all, with regard to the Pennsylvania proceedings that Mr. Kamin discussed, while the Securities Commission has ruled as he indicated and while the judge in the Western District also has ruled as indicated, the matter is currently pending before the Commonwealth Court

of Pennsylvania, which is the appropriate appellate court for appeals from decisions of administrative agencies in Pennsylvania, and it is my understanding from Pittsburgh counsel, your Honor, that a hearing has been set on Monday morning at 11:00 a.m. before the Commonwealth Court or a judge thereof with regard to a motion that was filed on our behalf seeking an injunction pending appeal in Pennsylvania on the jurisdictional issue decided, in our view, obviously, improperly by the Securities Commission.

I wanted to update the Court on that, so there is a proceeding still pending in Pennsylvania, [page 5] beyond which, your honor, with regard to the matter before the Court, it is in fact true that I have not served any notice of an intention to bring any action under the Illinois statute. However, in light of the notice that I also received yesterday afternoon from the Secretary of State, I am certainly not before the Court taking the position that there is no case or controversy with regard to my client, because my client's involvement in the action —

THE COURT: Is going to be affected?

MR. QUAINI: —is going to be affected, and my serving a notice of my intention to take action, in my judgment, would be merely superfluous at this point. If a cease and desist order is going to be issued or has been issued pending effectiveness on Monday, then that obviously involves my client.

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[page 14]

THE COURT: Tuesday the 13th? O.K.

Well, I have before me — you know, this is somewhat out of order, but I agree with you, Mr. Quaini, for sure that any litigation expenses, of course, are not irreparable injury. The Supreme Court has told us that very clearly.

But I look upon this as an application for a temporary

restraining order which, of course, since it is an extraordinary relief, I can take it on the affidavits and I have to also take a look at the time questions that are involved in this case, but before, of course, I can grant a temporary restraining order there are really three determinations that I have to make, whether there exists, one, an adequate remedy at law; two, whether the plaintiff has a likelihood of success on the merits; and, three, the issue that you had raised most vociferously whether without such an order the plaintiff would suffer irreparable injury. And in making that determination, of course, I have to keep in mind that any injunction, especially a temporary restraining order, is extraordinary relief and should be granted only upon a clear showing by the plaintiff.

As to the first element, it is clear that [page 15] Mite has no adequate remedy at law. Certainly since Piper v. Criss-Craft at 430 U.S. 1, it appears that the only viable remedy in a tender offer situation is injunctive relief rather than an action for damages. If Mite is unsuccessful in its tender offer, it will be unable to recoup any damages sustained. Furthermore, inasmuch as Mite's primary concern at this juncture is delay to their tender offer, available administrative remedies which are both time-consuming and speculative don't provide a viable alternative to injunctive relief.

Secondly, I find that Mite has made a sufficient showing of likelihood of success on the merits, and this is one, really, an analysis purely on the law, and when I take — of course, in making that determination I rely heavily on Judge Wisdom's very scholarly and extensive analysis in the Great Western United Corporation v. Kidwell case, 577 F. 2d 1256. I realize the Supreme Court has granted probable jurisdiction in that case, or has noted probable jurisdiction.

I also have to, and although I realize this is certainly not res judicata or any other approval on the merits, I have to take a look at the history of the Uarco case in deciding whether in

fact in my judgment Judge Wisdom's opinion in Kidwell is going to be ultimately sustained, and the action, of course, the Court of Appeals [page 16] in the Uarco case did not reach the merits of the issue, but I also have to take note that Mr. Justice Stevens denied any further stay of the order, and Mr. Justice Stevens, of course, was a member of the court that noted probable jurisdiction in Great Western United v. Kidwell. I realize fully that that has absolutely no precedential value, but it is something that must be considered. It may be or it may not be an inclination at least by one Justice of the court as to his views of Judge Wisdom's opinion.

There is no question, however, that not every provision of the Illinois Act may be constitutionally defective and, further, not all those provisions which allegedly do conflict with Federal law will necessarily affect this particular tender offer. However, I think there is sufficient disparity between certain principal sections of the Williams Act and the Illinois Act which unquestionably touch this tender offer, and it compels a finding, to me, that there is a substantial likelihood of success on the merits.

Really of prime concern to me is the question of delay. Under the Illinois Act, unless accelerated by the Secretary, there is a 20-day waiting period between when a registration statement is filed and when the tender offer becomes registered. Further, [page 17] a pre-offer hearing may be called within the discretion of the Secretary within 20 days of registration, or if requested by a majority of directors of the target company, giving the target company control over the offer under the Illinois Act, I find within 15 days of registration. The hearing will ordinarily be held within ten days of the notice of request, but it may be continued by the Secretary. As I view the Act, if the majority of the directors of the target company request a hearing, the Secretary has to grant the hearing. He doesn't have the discretion and, therefore, puts

the enforcement of the Act and the delay provisions of the Act into the hands of the target company, providing them with an unfair advantage in the market place. And then the results of the hearing, of course, must be announced within 15 business days of the conclusion of the hearing.

It is evident to me that under the statutory scheme of the Illinois Act, that the delay in a tender offer is indeterminative and could conceivably be fatal to a proposed tender offer. By contrast, the Williams Act provides for no such lengthy delay regardless of any proposals to incorporate it in the Act. They are not in the Act now.

The defendants' response, really, that any delay thus far has been the result of the plaintiffs' [page 18] deliberate refusal to comply with the Illinois Act, I think is unfounded. The potential for delay under the Illinois Act goes well beyond the three-week delay since the initiation of this action.

Also, that there was — I have taken note, too, that there was litigation pending in Pennsylvania during this period of time, and apparently there is still action pending in Pennsylvania.

Futher, I note that the Secretary, in his notice of the cease and desist order, gave as his sole basis for the order the fact that Mite has failed to register the tender offer. Nowhere in the pleadings can I find any assertion by the Secretary of what interests the Illinois law purports to protect which are not adequate protected by the Fedral law.

In the face of a constitutional challenge, I can't speculate as to the purposes of the state statute.

Finally, I find that under the circumstances of this case, the delay that will be occasioned by requiring Mite to comply with the Illinois law will result in irreparable injury. The injury, I believe, is evident from the proceedings thus far and inherent in the transaction. When this action was filed, the plaintiff proposed to begin the tender offer on the 24th of January.

Because of litigation in Pennsylvania, that date was reset to the [page 19] 5th of February. According to the notice of hearing issued by the Secretary, a hearing is set for the 5th of February. This will, of course, require that the offer be reset again, and if the majority of the Board of Directors of the target company request a hearing, that it would be a minimum of a 15-day period before that hearing could commence.

I am mindful, of course, also that the proceedings pending in Pennsylvania have caused and continue to cause more delay, and I think that the fact that Mite could lose the opportunity to acquire a company, a unique company, that that could cause irreparable injury to them.

Also I have to balance, as far as the potential for injury, obviously another thing I have to do as far as the — in granting a temporary restraining order, ruling on a temporary restraining order, is balancing the equities, and I can't balance the equities between the management of plaintiffs and the management of Chicago Rivet, but balance the equities as to the shareholders of Chicago Rivet, because they are the ones that the Williams Act is designed to protect and the Illinois Act at least facially is designed to protect, not to protect the incumbent management, although I find that the provisions of the Illinois Act do have the effect of protect- [page 20] ing incumbent management or giving incumbent management an unfair advantage in a tender offer situation. As between the shareholders of Chicago Rivet and Mite, I think that balance has been struck by the enactment of the Williams Act, and the Williams Act will balance the equities.

Therefore, I grant the motion of the plaintiff Mite against the defendant Alan Dixon for a temporary restraining order, and I enjoin the Secretary of State from enforcing the Illinois Business Take-Over statute against this tender offer, and this temporary restraining order, of course, as all temporary

restraining orders, shall be for ten days, but I will have a hearing within that ten-day period before the tender offer can become effective that is going to be issued on the 5th of February, and I will therefore schedule a hearing on a permanent injunction on the 8th of February, Thursday, the 8th of February.

O.K., now I think I am going to tell both parties, you know, there is a substantial body of law that says that when the granting of a temporary restraining order has in effect granted the relief, that it does become an appealable order, but if you wish me to style it a "preliminary injunction" so that there is no question in the Court of Appeals as to jurisdiction, I will certainly [page 21] do that, as I did in the Uarco against Daylin.

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[page 26]

THE COURT: All right, so how do you want me to style the order, as a preliminary injunction?

MR. QUAINI: On behalf of my client, I think that would be advisable, your Honor, so that there is no question about its appealability.

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APPENDIX J

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MITE CORPORATION and
MITE HOLDINGS, INC.,

Plaintiffs,

v. No. 79 C 200

ALAN J. DIXON and CHICAGO
RIVET & MACHINE CO.,

Defendants.

TRANSCRIPT OF PROCEEDINGS

had in the above-entitled cause before the Honorable JOHN POWERS CROWLEY, one of the Judges of said Court, in his courtroom in the United States Courthouse, Chicago, Illinois, on Friday, February 9, 1979, at 11:00 a.m.

PRESENT:

MR. CHESTER T. KAMIN
MR. RICHARD HULBERT
on behalf of Plaintiffs;

MR. DUANE QUAINI
on behalf of Defendant Chicago Rivet;

MR. WILLIAM SHAPIRO,
Assistant Attorney General of the State of Illinois,
on behalf of Defendant Dixon.

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